

Public Law 105-164
105th Congress

An Act

Mar. 20, 1998
[H.R. 3116]

To address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes.

Examination
Parity and Year
2000 Readiness
for Financial
Institutions Act.
12 USC 1461
note.
12 USC 1811
note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Examination Parity and Year 2000 Readiness for Financial Institutions Act".

SEC. 2. YEAR 2000 READINESS FOR FINANCIAL INSTITUTIONS.

(a) **FINDINGS.**—The Congress finds that—

(1) the Year 2000 computer problem poses a serious challenge to the American economy, including the Nation's banking and financial services industries;

(2) thousands of banks, savings associations, and credit unions rely heavily on internal information technology and computer systems, as well as outside service providers, for mission-critical functions, such as check clearing, direct deposit, accounting, automated teller machine networks, credit card processing, and data exchanges with domestic and international borrowers, customers, and other financial institutions; and

(3) Federal financial regulatory agencies must have sufficient examination authority to ensure that the safety and soundness of the Nation's financial institutions will not be at risk.

(b) **DEFINITIONS.**—For purposes of this section—

(1) the terms "depository institution" and "Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act;

(2) the term "Federal home loan bank" has the same meaning as in section 2 of the Federal Home Loan Bank Act;

(3) the term "Federal reserve bank" means a reserve bank established under the Federal Reserve Act;

(4) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act; and

(5) the term "Year 2000 computer problem" means, with respect to information technology, any problem which prevents such technology from accurately processing, calculating, comparing, or sequencing date or time data—

(A) from, into, or between—

(i) the 20th and 21st centuries; or

(ii) the years 1999 and 2000; or

(B) with regard to leap year calculations.

(c) SEMINARS AND MODEL APPROACHES TO YEAR 2000 COMPUTER PROBLEM.—

(1) SEMINARS.—

(A) IN GENERAL.—Each Federal banking agency and the National Credit Union Administration Board shall offer seminars to all depository institutions and insured credit unions under the jurisdiction of such agency on the implication of the Year 2000 computer problem for—

(i) the safe and sound operations of such depository institutions and credit unions; and

(ii) transactions with other financial institutions, including Federal reserve banks and Federal home loan banks.

(B) CONTENT AND SCHEDULE.—The content and schedule of seminars offered pursuant to subparagraph (A) shall be determined by each Federal banking agency and the National Credit Union Administration Board taking into account the resources and examination priorities of such agency.

(2) MODEL APPROACHES.—

(A) IN GENERAL.—Each Federal banking agency and the National Credit Union Administration Board shall make available to each depository institution and insured credit union under the jurisdiction of such agency model approaches to common Year 2000 computer problems, such as model approaches with regard to project management, vendor contracts, testing regimes, and business continuity planning.

(B) VARIETY OF APPROACHES.—In developing model approaches to the Year 2000 computer problem pursuant to subparagraph (A), each Federal banking agency and the National Credit Union Administration Board shall take into account the need to develop a variety of approaches to correspond to the variety of depository institutions or credit unions within the jurisdiction of the agency.

(3) COOPERATION.—In carrying out this section, the Federal banking agencies and the National Credit Union Administration Board may cooperate and coordinate their activities with each other, the Financial Institutions Examination Council, and appropriate organizations representing depository institutions and credit unions.

SEC. 3. REGULATION AND EXAMINATION OF SERVICE PROVIDERS.

(a) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES.—

(1) AMENDMENT TO HOME OWNERS' LOAN ACT.—Section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end the following:

“(7) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES, SUBSIDIARIES, AND SERVICE PROVIDERS.—

“(A) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—A service company or subsidiary that is owned in whole or in part by a savings association shall be subject to examination and regulation by the Director to the same extent as that savings association.

“(B) EXAMINATION BY OTHER BANKING AGENCIES.—The Director may authorize any other Federal banking agency that supervises any other owner of part of the service company or subsidiary to perform an examination described in subparagraph (A).

“(C) APPLICABILITY OF SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—A service company or subsidiary that is owned in whole or in part by a saving association shall be subject to the provisions of section 8 of the Federal Deposit Insurance Act as if the service company or subsidiary were an insured depository institution. In any such case, the Director shall be deemed to be the appropriate Federal banking agency, pursuant to section 3(q) of the Federal Deposit Insurance Act.

“(D) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subparagraph (A), if a savings association, a subsidiary thereof, or any savings and loan affiliate or entity, as identified by section 8(b)(9) of the Federal Deposit Insurance Act, that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any service authorized under this Act or, in the case of a State savings association, any applicable State law, whether on or off its premises—

“(i) such performance shall be subject to regulation and examination by the Director to the same extent as if such services were being performed by the savings association on its own premises; and

“(ii) the savings association shall notify the Director of the existence of the service relationship not later than 30 days after the earlier of—

“(I) the date on which the contract is entered into; or

“(II) the date on which the performance of the service is initiated.

“(E) ADMINISTRATION BY THE DIRECTOR.—The Director may issue such regulations and orders, including those issued pursuant to section 8 of the Federal Deposit Insurance Act, as may be necessary to enable the Director to administer and carry out this paragraph and to prevent evasion of this paragraph.

“(8) DEFINITIONS.—For purposes of this section—

“(A) the term ‘service company’ means—

“(i) any corporation—

“(I) that is organized to perform services authorized by this Act or, in the case of a corporation owned in part by a State savings association, authorized by applicable State law; and

“(II) all of the capital stock of which is owned by 1 or more insured savings associations; and

“(ii) any limited liability company—

“(I) that is organized to perform services authorized by this Act or, in the case of a company, 1 of the members of which is a State savings association, authorized by applicable State law; and

“(II) all of the members of which are 1 or more insured savings associations;

“(B) the term ‘limited liability company’ means any company, partnership, trust, or similar business entity organized under the law of a State (as defined in section 3 of the Federal Deposit Insurance Act) that provides that a member or manager of such company is not personally liable for a debt, obligation, or liability of the company solely by reason of being, or acting as, a member or manager of such company; and

“(C) the terms ‘State savings association’ and ‘subsidiary’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.”.

(2) CONFORMING AMENDMENTS TO SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in subsection (b)(9), by striking “to any service corporation of a savings association and to any subsidiary of such service corporation”;

(B) in subsection (e)(7)(A)(ii), by striking “(b)(8)” and inserting “(b)(9)”; and

(C) in subsection (j)(2), by striking “(b)(8)” and inserting “(b)(9)”.

(b) REGULATION AND EXAMINATION OF SERVICE PROVIDERS FOR CREDIT UNIONS.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by inserting after section 206 the following new section:

“SEC. 206A. REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS AND SERVICE PROVIDERS. 12 USC 1786a.

“(a) REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS.—

“(1) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—A credit union organization shall be subject to examination and regulation by the Board to the same extent as that insured credit union.

“(2) EXAMINATION BY OTHER BANKING AGENCIES.—The Board may authorize to make an examination of a credit union organization in accordance with paragraph (1)—

“(A) any Federal regulator agency that supervises any activity of a credit union organization; or

“(B) any Federal banking agency that supervises any other person who maintains an ownership interest in a credit union organization.

“(b) APPLICABILITY OF SECTION 206.—A credit union organization shall be subject to the provisions of section 206 as if the credit union organization were an insured credit union.

“(c) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subsection (a), if an insured credit union or a credit union organization that is regularly examined or subject to examination by the Board, causes to be performed for itself, by contract or otherwise, any service authorized under this Act, or in the case of a State credit union, any applicable State law, whether on or off its premises—

“(1) such performance shall be subject to regulation and examination by the Board to the same extent as if such services

were being performed by the insured credit union or credit union organization itself on its own premises; and

“(2) the insured credit union or credit union organization shall notify the Board of the existence of the service relationship not later than 30 days after the earlier of—

“(A) the date on which the contract is entered into; or

“(B) the date on which the performance of the service is initiated.

“(d) ADMINISTRATION BY THE BOARD.—The Board may issue such regulations and orders as may be necessary to enable the Board to administer and carry out this section and to prevent evasion of this section.

“(e) DEFINITIONS.—For purposes of this section—

“(1) the term ‘credit union organization’ means any entity that—

“(A) is not a credit union;

“(B) is an entity in which an insured credit union may lawfully hold an ownership interest or investment; and

“(C) is owned in whole or in part by an insured credit union; and

“(2) the term ‘Federal banking agency’ has the same meaning as in section 3 of the Federal Deposit Insurance Act.

“(f) EXPIRATION OF AUTHORITY.—This section and all powers and authority of the Board under this section shall cease to be effective as of December 31, 2001.”.

Approved March 20, 1998.

LEGISLATIVE HISTORY—H.R. 3116:

HOUSE REPORTS: No. 105-417 (Comm. on Banking and Financial Services).
CONGRESSIONAL RECORD, Vol. 144 (1998):

Feb. 24, considered and passed House.

Mar. 6, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):
Mar. 20, Presidential statement.