

troller determines to be appropriate to carry out the purposes of this chapter.”; and

(B) in paragraph (3), by substituting “Comptroller and the Corporation” for “Director” wherever appearing;

(2) in subsection (b)—

(A) by substituting “Comptroller” for “Director” wherever appearing; and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting “and” at the end;

(ii) in subparagraph (B), by substituting a period for “; and”; and

(iii) by striking out subparagraph (C);

(3) in subsection (c)—

(A) by substituting “The regulations of the Comptroller and the policies of the Comptroller and the Corporation” for “All regulations and policies of the Director”; and

(B) by striking out “of the Currency”;

(4) in subsection (e)(5), by substituting “Comptroller” for “Director”; and

(5) in subsections (f) and (h), by substituting “appropriate Federal banking agency” for “Director” wherever appearing.

See Effective Date of 2010 Amendment note below.

PRIOR PROVISIONS

A prior section 1463, acts June 13, 1933, ch. 64, §4, 48 Stat. 129; Apr. 27, 1934, ch. 168, §§1(a), 2-4, 13, 48 Stat. 643-645, 647; June 27, 1934, ch. 847, title V, §§506, 508(b), 48 Stat. 1263, 1264; May 28, 1935, ch. 150, §§10-17(a), 49 Stat. 296, 297; Aug. 11, 1939, ch. 684, 53 Stat. 1403; Oct. 24, 1942, ch. 621, 56 Stat. 986; June 30, 1947, ch. 166, title II, §206(f), 61 Stat. 206, related to creation of Home Owners' Loan Corporation, for appointment and compensation of its board of directors, for appointment and compensation of its employees, and for other powers, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 648.

A prior section 1463a, act Apr. 27, 1934, ch. 168, §1(b), 48 Stat. 644, provided that amendments made to subsec. (c) of former section 1463 of this title, except with respect to refunding, by act Apr. 27, 1934, should not apply to any bonds prior to Apr. 27, 1934, issued under subsec. (c), or to any bonds thereafter issued in compliance with commitments of the Corporation outstanding on Apr. 27, 1934.

A prior section 1463b, act Apr. 27, 1934, ch. 168, §9, 48 Stat. 646, related to purchase of obligations of, and loans to, Federal Home Loan Banks, prior to repeal by act May 28, 1935, ch. 150, §17(b), 49 Stat. 297.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS

Pub. L. 101-73, title III, §308, Aug. 9, 1989, 103 Stat. 353, as amended by Pub. L. 111-203, title III, §367(4), July 21, 2010, 124 Stat. 1556, provided that:

“(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with the Director of the Office of Thrift Supervision and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:

“(1) Preserving the present number of minority depository institutions.

“(2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:

“(A) Same type of minority depository institution in the same city.

“(B) Same type of minority depository institution in the same State.

“(C) Same type of minority depository institution nationwide.

“(D) Any type of minority depository institution in the same city.

“(E) Any type of minority depository institution in the same State.

“(F) Any type of minority depository institution nationwide.

“(G) Any other bidders.

“(3) Providing technical assistance to prevent insolvency of institutions not now insolvent.

“(4) Promoting and encouraging creation of new minority depository institutions.

“(5) Providing for training, technical assistance, and educational programs.

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

“(1) MINORITY FINANCIAL INSTITUTION.—The term ‘minority depository institution’ means any depository institution that—

“(A) if a privately owned institution, 51 percent is owned by one or more socially and economically disadvantaged individuals;

“(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

“(C) in the case of a mutual institution where the majority of the Board of Directors, account holders, and the community which it services is predominantly minority.

“(2) MINORITY.—The term ‘minority’ means any black American, Native American, Hispanic American, or Asian American.”

[Pub. L. 111-203, title III, §§351, 367(4), July 21, 2010, 124 Stat. 1546, 1556, provided that, effective on the transfer date (defined in section 5301 of this title), section 308 of Pub. L. 101-73, set out above, is amended—

[(A) in subsection (a), by striking “Director of the Office of Thrift Supervision” and inserting “Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Chairman of the National Credit Union Administration.”; and

[(B) by adding at the end the following new subsection:

“(c) REPORTS.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Chairman of the National Credit Union Administration, and the Chairperson of Board of Directors of the Federal Deposit Insurance Corporation shall each submit an annual report to the Congress containing a description of actions taken to carry out this section.”]

ABOLITION OF HOME OWNERS' LOAN CORPORATION

Act June 30, 1953, ch. 170, §21, 67 Stat. 126, provided for dissolution and abolition of Home Owners' Loan Corporation established by former section 1463 of this title.

§ 1464. Federal savings associations

(a) In general

In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Director is authorized, under such regulations as the Director may prescribe—

(1) to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings associations (including Federal savings banks), and

(2) to issue charters therefor,

giving primary consideration of the best practices of thrift institutions in the United States.

The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.

(b) Deposits and related powers

(1) Deposit accounts

(A) Subject to the terms of its charter and regulations of the Director, a Federal savings association may—

- (i) raise funds through such deposit, share, or other accounts, including demand deposit accounts (hereafter in this section referred to as “accounts”); and
- (ii) issue passbooks, certificates, or other evidence of accounts.

(B) A Federal savings association may not—

- (i) pay interest on a demand account; or
- (ii) permit any overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such overdraft in such savings association’s account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of a Federal savings association shall, to such extent as may be provided by its charter or by regulations of the Director, be members of the savings association, and shall have such voting rights and such other rights as are thereby provided.

(C) A Federal savings association may require not less than 14 days notice prior to payment of savings accounts if the charter of the savings association or the regulations of the Director so provide.

(D) If a Federal savings association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice), the payment of withdrawals from accounts shall be subject to such rules and procedures as may be prescribed by the savings association’s charter or by regulation of the Director. Except as authorized in writing by the Director, any Federal savings association that fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition.

(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the Federal savings association, as the Director may by regulation provide.

(F) A Federal savings association may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Director.

(2) Other liabilities

To such extent as the Director may authorize in writing, a Federal savings association may borrow, may give security, may be surety as defined by the Director and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock.

(3) Loans from State housing finance agencies

(A) In general

Subject to regulation by the Director but without regard to any other provision of this subsection, any Federal savings association that is in compliance with the capital standards in effect under subsection (t) of this section may borrow funds from a State mortgage finance agency of the State in which the head office of such savings association is situated to the same extent as State law authorizes a savings association organized under the laws of such State to borrow from the State mortgage finance agency.

(B) Interest rate

A Federal savings association may not make any loan of funds borrowed under subparagraph (A) at an interest rate which exceeds by more than 1¾ percent per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

(4) Mutual capital certificates

In accordance with regulations issued by the Director, mutual capital certificates may be issued and sold directly to subscribers or through underwriters. Such certificates may be included in calculating capital for the purpose of subsection (t) of this section to the extent permitted by the Director. The issuance of certificates under this paragraph does not constitute a change of control or ownership under this chapter or any other law unless there is in fact a change in control or reorganization. Regulations relating to the issuance and sale of mutual capital certificates shall provide that such certificates—

(A) are subordinate to all savings accounts, savings certificates, and debt obligations;

(B) constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the Federal savings association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

(C) are entitled to the payment of dividends; and

(D) may have a fixed or variable dividend rate.

(c) Loans and investments

To the extent specified in regulations of the Director, a Federal savings association may invest in, sell, or otherwise deal in the following loans and other investments:

(1) Loans or investments without percentage of assets limitation

Without limitation as a percentage of assets, the following are permitted:

(A) Account loans

Loans on the security of its savings accounts and loans specifically related to transaction accounts.

(B) Residential real property loans

Loans on the security of liens upon residential real property.

(C) United States Government securities

Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

(D) Federal home loan bank and Federal National Mortgage Association securities

Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

(E) Federal Home Loan Mortgage Corporation instruments

Investments in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455].

(F) Other Government securities

Investments in obligations, participations, securities, or other instruments issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association, or any agency of the United States. A savings association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act [12 U.S.C. 1721(g)].

(G) Deposits

Investments in accounts of any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(H) State securities

Investments in obligations issued by any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision). A Federal savings association may not invest more than 10 percent of its capital in obligations of any one issuer, exclusive of investments in general obligations of any issuer.

(I) Purchase of insured loans

Purchase of loans secured by liens on improved real estate which are insured or guaranteed under the National Housing Act [12 U.S.C. 1701 et seq.], the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38.

(J) Home improvement and manufactured home loans

Loans made to repair, equip, alter, or improve any residential real property, and loans made for manufactured home financing.

(K) Insured loans to finance the purchase of fee simple

Loans insured under section 240 of the National Housing Act [12 U.S.C. 1715z-5].

(L) Loans to financial institutions, brokers, and dealers

Loans to—

- (i) financial institutions with respect to which the United States or an agency or

instrumentality thereof has any function of examination or supervision, or

- (ii) any broker or dealer registered with the Securities and Exchange Commission,

which are secured by loans, obligations, or investments in which the Federal savings association has the statutory authority to invest directly.

(M) Liquidity investments

Investments (other than equity investments), identified by the Director, for liquidity purposes, including cash, funds on deposit at a Federal reserve bank or a Federal home loan bank, or bankers' acceptances.

(N) Investment in the national housing partnership corporation, partnerships, and joint ventures

Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.], and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act [42 U.S.C. 3937(a) or (c)].

(O) Certain HUD insured or guaranteed investments

Loans that are secured by mortgages—

- (i) insured under title X of the National Housing Act [12 U.S.C. 1749aa et seq.],¹ or

- (ii) guaranteed under title IV of the Housing and Urban Development Act of 1968, under part B of the National Urban Policy and New Community Development Act of 1970 [42 U.S.C. 4511 et seq.], or under section 802 of the Housing and Community Development Act of 1974 [42 U.S.C. 1440].

(P) State housing corporation investments

Obligations of and loans to any State housing corporation, if—

- (i) such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act [12 U.S.C. 1701 et seq.], and

- (ii) in the event of default, the holder of the obligations or loans has the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

(Q) Investment companies

A Federal savings association may invest in, redeem, or hold shares or certificates issued by any open-end management investment company which—

- (i) is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], and

- (ii) the portfolio of which is restricted by such management company's investment

¹ See References in Text note below.

policy (changeable only if authorized by shareholder vote) solely to investments that a Federal savings association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal in.

(R) Mortgage-backed securities

Investments in securities that—

(i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 [15 U.S.C. 77d(5)]; or

(ii) are mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934) [15 U.S.C. 78c(a)(41)],

subject to such regulations as the Director may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales price, or both.

(S) Small business related securities

Investments in small business related securities (as defined in section 78c(a)(53) of title 15), subject to such regulations as the Director may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both.

(T) Credit card loans

Loans made through credit cards or credit card accounts.

(U) Educational loans

Loans made for the payment of educational expenses.

(2) Loans or investments limited to a percentage of assets or capital

The following loans or investments are permitted, but only to the extent specified:

(A) Commercial and other loans

Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans made under this subparagraph may not exceed 20 percent of the total assets of the Federal savings association, and amounts in excess of 10 percent of such total assets may be used under this subparagraph only for small business loans, as that term is defined by the Director.

(B) Nonresidential real property loans

(i) In general

Loans on the security of liens upon nonresidential real property. Except as provided in clause (ii), the aggregate amount of such loans shall not exceed 400 percent of the Federal savings association's capital, as determined under subsection (t) of this section.

(ii) Exception

The Director may permit a savings association to exceed the limitation set forth in clause (i) if the Director determines that the increased authority—

(I) poses no significant risk to the safe and sound operation of the association, and

(II) is consistent with prudent operating practices.

(iii) Monitoring

If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations.

(C) Investments in personal property

Investments in tangible personal property, including vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale. Investments under this subparagraph may not exceed 10 percent of the assets of the Federal savings association.

(D) Consumer loans and certain securities

A Federal savings association may make loans for personal, family, or household purposes, including loans reasonably incident to providing such credit, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Director. Loans and other investments under this subparagraph may not exceed 35 percent of the assets of the Federal savings association, except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party.

(3) Loans or investments limited to 5 percent of assets

The following loans or investments are permitted, but not to exceed 5 percent of assets of a Federal savings association for each subparagraph:

(A) Community development investments

Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.]. No investment under this subparagraph in such real property may exceed an aggregate of 2 percent of the assets of the Federal savings association.

(B) Nonconforming loans

Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection.

(C) Construction loans without security

Loans—

(i) the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate; and

(ii) with respect to which the association—

(I) relies substantially on the borrower's general credit standing and projected future income for repayment, without other security; or

(II) relies on other assurances for repayment, including a guarantee or similar obligation of a third party.

The aggregate amount of such investments shall not exceed the greater of the Federal savings association's capital or 5 percent of its assets.

(4) Other loans and investments

The following additional loans and other investments to the extent authorized below:

(A) Business development credit corporations

A Federal savings association that is in compliance with the capital standards prescribed under subsection (t) of this section may invest in, lend to, or to² commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings associations chartered by such State are authorized. The aggregate amount of such investments, loans, and commitments of any such Federal savings association shall not exceed one-half of 1 percent of the association's total outstanding loans or \$250,000, whichever is less.

(B) Service corporations

Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the Federal savings association's home office is located, if such corporation's entire capital stock is available for purchase only by savings associations of such State and by Federal associations having their home offices in such State. No Federal savings association may make any investment under this subparagraph if the association's aggregate outstanding investment under this subparagraph would exceed 3 percent of the association's assets. Not less than one-half of the investment permitted under this subparagraph which exceeds 1 percent of the association's assets shall be used primarily for community, inner-city, and community development purposes.

(C) Foreign assistance investments

Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 [22 U.S.C. 2181] or loans having the benefit of any guarantee under section 224 of such Act [22 U.S.C. 2184],³ or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition,

holding, and disposition of loans guaranteed under section 221 or 222 of such Act [22 U.S.C. 2181 or 2182]. Investments under this subparagraph shall not exceed 1 percent of the Federal savings association's assets.

(D) Small business investment companies

A Federal savings association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 [15 U.S.C. 681(d)]³ for the purpose of aiding members of a Federal home loan bank. A Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 percent of the assets of such savings association.

(E) Bankers' banks

A Federal savings association may purchase for its own account shares of stock of a bankers' bank, described in Paragraph Seventh of section 24 of this title or in section 27(b) of this title, on the same terms and conditions as a national bank may purchase such shares.

(F) New Markets Venture Capital companies

A Federal savings association may invest in stock, obligations, or other securities of any New Markets Venture Capital company as defined in section 689 of title 15, except that a Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 5 percent of the capital and surplus of such savings association.

(5) Transition rule for savings associations acquiring banks

(A) In general

If, under section 5(d)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(3)],³ a savings association acquires all or substantially all of the assets of a bank, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

(B) Extension

The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this chapter.

(6) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Residential property

The terms "residential real property" or "residential real estate" mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Director) and, combinations of homes

²So in original.

³See References in Text note below.

or dwelling units and business property, involving only minor or incidental business use, or property to be improved by construction of such structures.

(B) Loans

The term “loans” includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

(d) Regulatory authority

(1) In general

(A) Enforcement

The Director shall have power to enforce this section, section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], and regulations prescribed hereunder. In enforcing any provision of this section, regulations prescribed under this section, or any other law or regulation, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director’s own name and through the Director’s own attorneys. Except as otherwise provided, the Director shall be subject to suit (other than suits on claims for money damages) by any Federal savings association or director or officer thereof with respect to any matter under this section or any other applicable law, or regulation thereunder, in the United States district court for the judicial district in which the savings association’s home office is located, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

(B) Ancillary provisions

(i) In making examinations of savings associations, examiners appointed by the Director shall have power to make such examinations of the affairs of all affiliates of such savings associations as shall be necessary to disclose fully the relations between such savings associations and their affiliates and the effect of such relations upon such savings associations. For purposes of this subsection, the term “affiliate” has the same meaning as in section 2(b) of the Banking Act of 1933 [12 U.S.C. 221a(b)], except that the term “member bank” in section 2(b) shall be deemed to refer to a savings association.

(ii) In the course of any examination of any savings association, upon request by the Director, prompt and complete access shall be given to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

(iii) Upon request made in the course of supervision or oversight of any savings association, for the purpose of acting on any application or determining the condition of any savings association, including whether operations are being conducted safely, soundly, or in compliance with charters,

laws, regulations, directives, written agreements, or conditions imposed in writing in connection with the granting of an application or other request, the Director shall be given prompt and complete access to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

(iv) If prompt and complete access upon request is not given as required in this subsection, the Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the institution is located, or in which the person denying such access resides or carries on business, for an order requiring that such information be promptly provided.

(v) In connection with examinations of savings associations and affiliates thereof, the Director may—

(I) administer oaths and affirmations and examine and to⁴ take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such savings association or affiliate, and

(II) issue subpoenas and, for the enforcement thereof, apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the savings association or affiliate is located, or in which the witness resides or carries on business.

Such courts shall have jurisdiction and power to order and require compliance with any such subpoena.

(vi) In any proceeding under this section, the Director may administer oaths and affirmations, take depositions, and issue subpoenas. The Director may prescribe regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted.

(vii) Any party to a proceeding under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena issued pursuant to this subsection or section 10(c) of the Federal Deposit Insurance Act [12 U.S.C. 1820(c)], and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. All expenses of the Director in connection with this section shall be considered as nonadministrative expenses. Any court having jurisdiction of any proceeding instituted under this section by a

⁴So in original.

savings association, or a director or officer thereof, may allow to any such party reasonable expenses and attorneys' fees. Such expenses and fees shall be paid by the savings association.

(2) Conservatorships and receiverships

(A) Grounds for appointing conservator or receiver for insured savings association

The Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act [12 U.S.C. 1821(c)(5)] exists.

(B) Power of appointment; judicial review

The Director shall have exclusive power and jurisdiction to appoint a conservator or receiver for a Federal savings association. If, in the opinion of the Director, a ground for the appointment of a conservator or receiver for a savings association exists, the Director is authorized to appoint ex parte and without notice a conservator or receiver for the savings association. In the event of such appointment, the association may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the Director to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Director to remove such conservator or receiver. Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

(C) Replacement

The Director may, without any prior notice, hearing, or other action, replace a conservator with another conservator or with a receiver, but such replacement shall not affect any right which the association may have to obtain judicial review of the original appointment, except that any removal under this subparagraph shall be removal of the conservator or receiver in office at the time of such removal.

(D) Court action

Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver or, except at the request of the Director, to restrain or affect the exercise of powers or functions of a conservator or receiver.

(E) Powers

(i) In general

A conservator shall have all the powers of the members, the stockholders, the directors, and the officers of the association and shall be authorized to operate the as-

sociation in its own name or to conserve its assets in the manner and to the extent authorized by the Director.

(ii) FDIC or RTC as conservator or receiver

Except as provided in section 21A of the Federal Home Loan Bank Act [12 U.S.C. 1441a], the Director, at the Director's discretion, may appoint the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as conservator for a savings association. The Director shall appoint only the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as receiver for a savings association for the purpose of liquidation or winding up the affairs of such savings association. The conservator or receiver so appointed shall, as such, have power to buy at its own sale. The Federal Deposit Insurance Corporation, as such conservator or receiver, shall have all the powers of a conservator or receiver, as appropriate, granted under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators or receivers, as appropriate, of savings associations under this chapter and any other provisions of law.

(F) Disclosure requirement for those acting on behalf of conservator

A conservator shall require that any independent contractor, consultant, or counsel employed by the conservator in connection with the conservatorship of a savings association pursuant to this section shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the conservator.

(3) Regulations

(A) In general

The Director may prescribe regulations for the reorganization, consolidation, liquidation, and dissolution of savings associations, for the merger of insured savings associations with insured savings associations, for savings associations in conservatorship and receivership, and for the conduct of conservatorships and receiverships. The Director may, by regulation or otherwise, provide for the exercise of functions by members, stockholders, directors, or officers of a savings association during conservatorship and receivership.

(B) FDIC or RTC as conservator or receiver

In any case where the Federal Deposit Insurance Corporation or the Resolution Trust Corporation is the conservator or receiver, any regulations prescribed by the Director shall be consistent with any regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(4) Refusal to comply with demand

Whenever a conservator or receiver appointed by the Director demands possession of the property, business, and assets of any savings association, or of any part thereof, the refusal by any director, officer, employee, or agent of such association to comply with the demand shall be punishable by a fine of not more than \$5,000 or imprisonment for not more than one year, or both.

(5) "Savings association" defined

As used in this subsection, the term "savings association" includes any savings association or former savings association that retains deposits insured by the Corporation, notwithstanding termination of its status as an institution insured by the Corporation.

(6) Compliance with monetary transaction recordkeeping and report requirements**(A) Compliance procedures required**

The Director shall prescribe regulations requiring savings associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31.

(B) Examinations of savings associations to include review of compliance procedures**(i) In general**

Each examination of a savings association by the Director shall include a review of the procedures required to be established and maintained under subparagraph (A).

(ii) Exam report requirement

The report of examination shall describe any problem with the procedures maintained by the association.

(C) Order to comply with requirements

If the Director determines that a savings association—

- (i) has failed to establish and maintain the procedures described in subparagraph (A); or
- (ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Director,

the Director shall issue an order under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.

(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 [12 U.S.C. 1818] 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 [12 U.S.C. 1813(q)].

(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 [12 U.S.C. 1818(b)(9)], 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 chapter 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 [12 U.S.C. 1818], 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 chapter 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 chapter 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 [12 U.S.C. 1813]) 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.

(e) Character and responsibility

A charter may be granted only—

(1) to persons of good character and responsibility,

(2) if in the judgment of the Director a necessity exists for such an institution in the community to be served,

(3) if there is a reasonable probability of its usefulness and success, and

(4) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions.

(f) Federal home loan bank membership

After the end of the 6-month period beginning on November 12, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.].

(g) Preferred shares

[Repealed.]

(h) Discriminatory State and local taxation prohibited

No State, county, municipal, or local taxing authority may impose any tax on Federal savings associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions.

(i) Conversions

(1) In general

Any savings association which is, or is eligible to become, a member of a Federal home loan bank may convert into a Federal savings association (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form). Such conversion shall be subject to such regulations as the Director shall prescribe. Thereafter such Federal savings association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this chapter.

(2) Authority of Director

(A) No savings association may convert from the mutual to the stock form, or from the

stock form to the mutual form, except in accordance with the regulations of the Director.

(B) Any aggrieved person may obtain review of a final action of the Director which approves or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of section 1467a(j) of this title within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Director, whichever is later.

(C) Any Federal savings association may change its designation from a Federal savings association to a Federal savings bank, or the reverse.

(3) Conversion to State association

(A) Any Federal savings association may convert itself into a savings association or savings bank organized pursuant to the laws of the State in which the principal office of such Federal savings association is located if—

(i) the State permits the conversion of any savings association or savings bank of such State into a Federal savings association;

(ii) such conversion of a Federal savings association into such a State savings association is determined—

(I) upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal savings association is located, as required by such law for a State-chartered institution to convert itself into a Federal savings association, but in no event upon a vote of less than 51 percent of all the votes cast at such meeting, and

(II) upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal savings association;

(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof; and such notice shall be mailed, postage prepaid, at least 30 and not more than 60 days prior to the date of the meeting, to the Director and to each member or stockholder of record of the Federal savings association at the member's or stockholder's last address as shown on the books of the Federal savings association;

(iv) when a mutual savings association is dissolved after conversion, the members or shareholders of the savings association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

(v) when a stock savings association is dissolved after conversion, the stockholders

will share on an equitable basis in the assets of the association; and

(vi) such conversion shall be effective upon the date that all the provisions of this chapter shall have been fully complied with and upon the issuance of a new charter by the State wherein the savings association is located.

(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Director may impose under this chapter.

(ii) The savings association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Director for issuance by similar savings associations in such State.

(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

(4) Savings bank activities

(A) To the extent authorized by the Director, but subject to section 18(m)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1828(m)(3)]—

(i) any Federal savings bank chartered as such prior to October 15, 1982, may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to October 15, 1982; and

(ii) any Federal savings bank in existence on August 9, 1989, and formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

(B) The authority conferred by this paragraph may be utilized by any Federal savings association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfather rights hereunder.

(5) Conversion to national or State bank

(A) In general

Any Federal savings association chartered and in operation before November 12, 1999, with branches in operation before November 12, 1999, in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency for each national bank, and with the approval of the appropriate State bank supervisor and the appropriate Federal banking agency for each State bank, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before November 12, 1999, in 1 or more States subject to subparagraph (B).

(B) Conditions of conversion

The authority in subparagraph (A) shall apply only if each resulting national or State bank—

(i) will meet all financial, management, and capital requirements applicable to the resulting national or State bank; and

(ii) if more than 1 national or State bank results from a conversion under this subparagraph, has received approval from the Federal Deposit Insurance Corporation under section 5(a) of the Federal Deposit Insurance Act [12 U.S.C. 1815(a)].

(C) No merger application under FDIA required

No application under section 18(c) of the Federal Deposit Insurance Act [12 U.S.C. 1828(c)] shall be required for a conversion under this paragraph.

(D) Definitions

For purposes of this paragraph, the terms “State bank” and “State bank supervisor” have the same meanings as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(6) Limitation on certain conversions by Federal savings associations

A Federal savings association may not convert to a State bank or State savings association during any period in which the Federal savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Office of Thrift Supervision or the Comptroller of the Currency with respect to a significant supervisory matter.

(j) Subscription for shares

[Repealed.]

(k) Depository of public money

When designated for that purpose by the Secretary of the Treasury, a savings association the deposits of which are insured by the Corporation shall be a depository of public money and may be employed as fiscal agent of the Government under such regulations as may be prescribed by the Secretary and shall perform all such reasonable duties as fiscal agent of the Government as may be required of it. A savings association the deposits of which are insured by the Corporation may act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality, including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury may deposit public money in any such savings association, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(l) Retirement accounts

A Federal savings association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1986 [26 U.S.C. 401(d)] and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code [26 U.S.C. 408] if the funds of such trust or

account are invested only in savings accounts or deposits in such Federal savings association or in obligations or securities issued by such Federal savings association. All funds held in such fiduciary capacity by any Federal savings association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under this paragraph.

(m) Branching

(1) In general

(A) No savings association incorporated under the laws of the District of Columbia or organized in the District or doing business in the District shall establish any branch or move its principal office or any branch without the Director's prior written approval.

(B) No savings association shall establish any branch in the District of Columbia or move its principal office or any branch in the District without the Director's prior written approval.

(2) "Branch" defined

For purposes of this subsection the term "branch" means any office, place of business, or facility, other than the principal office as defined by the Director, of a savings association at which accounts are opened or payments are received or withdrawals are made, or any other office, place of business, or facility of a savings association defined by the Director as a branch within the meaning of such sentence.

(n) Trusts

(1) Permits

The Director may grant by special permit to a Federal savings association applying therefor the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which compete with Federal savings associations are permitted to act under the laws of the State in which the Federal savings association is located. Subject to the regulations of the Director, service corporations may invest in State or federally chartered corporations which are located in the State in which the home office of the Federal savings association is located and which are engaged in trust activities.

(2) Segregation of assets

A Federal savings association exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under this subsection. The State banking authority involved may have access to reports of examination made by the Director insofar as such reports relate to the trust department of such association but nothing in this subsection shall be construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

(3) Prohibitions

No Federal savings association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Director.

(4) Separate lien

In the event of the failure of a Federal savings association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

(5) Deposits

Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, Federal savings associations so acting shall be required to make similar deposits. Securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Federal savings associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Federal savings associations shall have power to execute such bond when so required by the laws of the State involved.

(6) Oaths and affidavits

In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

(7) Certain loans prohibited

It shall be unlawful for any Federal savings association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than \$50,000 or twice the amount of that person's gain from the loan, whichever is greater, or may be imprisoned not more than 5 years, or may be both fined and imprisoned, in the discretion of the court.

(8) Factors to be considered

In reviewing applications for permission to exercise the powers enumerated in this section, the Director may consider—

(A) the amount of capital of the applying Federal savings association,

(B) whether or not such capital is sufficient under the circumstances of the case,

(C) the needs of the community to be served, and

(D) any other facts and circumstances that seem to it proper.

The Director may grant or refuse the application accordingly, except that no permit shall be issued to any association having capital less than the capital required by State law of State banks, trust companies, and corporations exercising such powers.

(9) Surrender of charter

(A) Any Federal savings association may surrender its right to exercise the powers granted under this subsection, and have returned to it any securities which it may have deposited with the State authorities, by filing with the Director a certified copy of a resolution of its board of directors indicating its intention to surrender its right.

(B) Upon receipt of such resolution, the Director, if satisfied that such Federal savings association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, may in the Director's discretion, issue to such association a certificate that such association is no longer authorized to exercise the powers granted by this subsection.

(C) Upon the issuance of such a certificate by the Director, such Federal savings association (i) shall no longer be subject to the provisions of this section or the regulations of the Director made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with State authorities, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

(D) The Director may prescribe regulations necessary to enforce compliance with the provisions of this subsection.

(10) Revocation

(A) In addition to the authority conferred by other law, if, in the opinion of the Director, a Federal savings association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of 5 consecutive years to exercise, the powers granted by this subsection or otherwise fails or has failed to comply with the requirements of this subsection, the Director may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(1)(B) of this section, and subject to judicial review as therein provided, and shall be fixed for a date not earlier than 30 days and not later than 60 days after service of such notice unless the Director sets an earlier or later

date at the request of any Federal savings association so served.

(C) Unless the Federal savings association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Director shall find that any allegation specified in the notice of charges has been established, the Director may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

(D) A revocation order shall become effective not earlier than the expiration of 30 days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

(o) Conversion of State savings banks

(1) Subject to the provisions of this subsection and under regulations of the Director, the Director may authorize the conversion of a State-chartered savings bank into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, examination, and regulation of such institution.

(2)(A) Any Federal savings bank chartered pursuant to this subsection shall continue to be insured by the Deposit Insurance Fund.

(B) The Director shall notify the Corporation of any application under this chapter for conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation before disposing of the application, and shall notify the Corporation of the Director's determination with respect to such application.

(C) Notwithstanding any other provision of law, if the Corporation determines that conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the default of a savings bank it insures or to reopen a savings bank in default that it insured, or if the Corporation determines, with the concurrence of the Director, that severe financial conditions exist that threaten the stability of a savings bank insured by the Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Corporation shall provide the Director with a certificate of such determination, the reasons therefor in conformance with the requirements of this chapter, and the bank shall be converted or chartered by the Director, pursuant to the regulations thereof, from the time the Corporation issues the certificate.

(D) A bank may be converted under subparagraph (C) only if the board of trustees of the bank—

(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

(ii) has requested in writing that the Corporation use the authority of subparagraph (C).

(E)(i) Before making a determination under subparagraph (D), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of subparagraph (D).

(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (D) only by an affirmative vote of three-fourths of the Board of Directors. The Board of Directors shall provide the State supervisor, as soon as practicable, with a written certification of its determination.

(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this chapter.

(p) Conversions

(1) Notwithstanding any other provision of law, and consistent with the purposes of this chapter, the Director may authorize (or in the case of a Federal savings association, require) the conversion of any mutual savings association or Federal mutual savings bank that is insured by the Corporation into a Federal stock savings association or Federal stock savings bank, or charter a Federal stock savings association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the regulations of the Director.

(2) Authorizations under this subsection may be made only—

(A) if the Director has determined that severe financial conditions exist which threaten the stability of an association and that such authorization is likely to improve the financial condition of the association,

(B) when the Corporation has contracted to provide assistance to such association under section 13 of the Federal Deposit Insurance Act [12 U.S.C. 1823], or

(C) to assist an institution in receivership.

(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this chapter, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter.

(q) Tying arrangements

(1) A savings association may not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

(A) that the customer shall obtain additional credit, property, or service from such savings association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

(3) Any person injured by a violation of paragraph (1) may bring an action in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or in any other court of competent jurisdiction, and shall be entitled to recover three times the amount of the damages sustained, and the cost of suit, including a reasonable attorney's fee. Any such action shall be brought within 4 years from the date of the occurrence of the violation.

(4) Nothing contained in this subsection affects in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Director under this subsection shall in any manner constitute a defense to such action.

(5) For purposes of this subsection, the term "loan" includes obligations and extensions or advances of credit.

(6) EXCEPTIONS.—The Director may, by regulation or order, permit such exceptions to the prohibitions of this subsection as the Director considers will not be contrary to the purposes of this subsection and which conform to exceptions

granted by the Board of Governors of the Federal Reserve System pursuant to section 1972 of this title.

(r) Out-of-State branches

(1) No Federal savings association may establish, retain, or operate a branch outside the State in which the Federal savings association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986 [26 U.S.C. 7701(a)(19)] or meets the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify, or qualifies as a qualified thrift lender, as determined under section 1467a(m) of this title. No out-of-State branch so established shall be retained or operated unless the total assets of the Federal savings association attributable to all branches of the Federal savings association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under section 7701(a)(19) or as a qualified thrift lender, as determined under section 1467a(m) of this title, as applicable.

(2) The limitations of paragraph (1) shall not apply if—

(A) the branch results from a transaction authorized under section 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)];

(B) the branch was authorized for the Federal savings association prior to October 15, 1982;

(C) the law of the State where the branch is located, or is to be located, would permit establishment of the branch if the association was a savings association or savings bank chartered by the State in which its home office is located; or

(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

(3) The Director, for good cause shown, may allow Federal savings associations up to 2 years to comply with the requirements of this subsection.

(s) Minimum capital requirements

(1) In general

Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 [12 U.S.C. 3907] and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act [12 U.S.C. 3902(1)]), the Director shall require all savings associations to achieve and maintain adequate capital by—

(A) establishing minimum levels of capital for savings associations; and

(B) using such other methods as the Director determines to be appropriate.

(2) Minimum capital levels may be determined by Director case-by-case

The Director may, consistent with subsection (t) of this section, establish the minimum level of capital for a savings association at such amount or at such ratio of capital-to-assets as the Director determines to be nec-

essary or appropriate for such association in light of the particular circumstances of the association.

(3) Unsafe or unsound practice

In the Director's discretion, the Director may treat the failure of any savings association to maintain capital at or above the minimum level required by the Director under this subsection or subsection (t) of this section as an unsafe or unsound practice.

(4) Directive to increase capital

(A) Plan may be required

In addition to any other action authorized by law, including paragraph (3), the Director may issue a directive requiring any savings association which fails to maintain capital at or above the minimum level required by the Director to submit and adhere to a plan for increasing capital which is acceptable to the Director.

(B) Enforcement of plan

Any directive issued and plan approved under subparagraph (A) shall be enforceable under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] to the same extent and in the same manner as an outstanding order which was issued under section 8 of the Federal Deposit Insurance Act and has become final.

(5) Plan taken into account in other proceedings

The Director may—

(A) consider a savings association's progress in adhering to any plan required under paragraph (4) whenever such association or any affiliate of such association (including any company which controls such association) seeks the Director's approval for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such association's progress in meeting the minimum level of capital required by the Director; and

(B) disapprove any proposal referred to in subparagraph (A) if the Director determines that the proposal would adversely affect the ability of the association to comply with such plan.

(t) Capital standards

(1) In general

(A) Requirement for standards to be prescribed

The Director shall, by regulation, prescribe and maintain uniformly applicable capital standards for savings associations. Those standards shall include—

- (i) a leverage limit;
- (ii) a tangible capital requirement; and
- (iii) a risk-based capital requirement.

(B) Compliance

A savings association is not in compliance with capital standards for purposes of this subsection unless it complies with all capital standards prescribed under this paragraph.

(C) Stringency

The standards prescribed under this paragraph shall be no less stringent than the

capital standards applicable to national banks.

(D) Deadline for regulations

The Director shall promulgate final regulations under this paragraph not later than 90 days after August 9, 1989, and those regulations shall become effective not later than 120 days after August 9, 1989.

(2) Content of standards

(A) Leverage limit

The leverage limit prescribed under paragraph (1) shall require a savings association to maintain core capital in an amount not less than 3 percent of the savings association's total assets.

(B) Tangible capital requirement

The tangible capital requirement prescribed under paragraph (1) shall require a savings association to maintain tangible capital in an amount not less than 1.5 percent of the savings association's total assets.

(C) Risk-based capital requirement

Notwithstanding paragraph (1)(C), the risk-based capital requirement prescribed under paragraph (1) may deviate from the risk-based capital standards applicable to national banks to reflect interest-rate risk or other risks, but such deviations shall not, in the aggregate, result in materially lower levels of capital being required of savings associations under the risk-based capital requirement than would be required under the risk-based capital standards applicable to national banks.

(3) Transition rule

(A) Certain qualifying supervisory goodwill included in calculating core capital

Notwithstanding paragraph (9)(A), an eligible savings association may include qualifying supervisory goodwill in calculating core capital. The amount of qualifying supervisory goodwill that may be included may not exceed the applicable percentage of total assets set forth in the following table:

For the following period:	The applicable percentage is:
Prior to January 1, 1992	1.500 percent
January 1, 1992–December 31, 1992	1.000 percent
January 1, 1993–December 31, 1993	0.750 percent
January 1, 1994–December 31, 1994	0.375 percent
Thereafter	0 percent

(B) Eligible savings associations

For purposes of subparagraph (A), a savings association is an eligible savings association so long as the Director determines that—

- (i) the savings association's management is competent;
- (ii) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and
- (iii) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

(4) [Repealed].

(5) Separate capitalization required for certain subsidiaries

(A) In general

In determining compliance with capital standards prescribed under paragraph (1), all of a savings association's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings association's capital.

(B) Exception for agency activities

Subparagraph (A) shall not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

(C) Other exceptions

Subparagraph (A) shall not apply with respect to any of the following:

(i) Mortgage banking subsidiaries

A savings association's investments in and extensions of credit to a subsidiary engaged solely in mortgage-banking activities.

(ii) Subsidiary insured depository institutions

A savings association's investments in and extensions of credit to a subsidiary—

(I) that is itself an insured depository institution or a company the sole investment of which is an insured depository institution, and

(II) that was acquired by the parent insured depository institution prior to May 1, 1989.

(iii) Certain Federal savings banks

Any Federal savings association existing as a Federal savings association on August 9, 1989—

(I) that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law; or

(II) that acquired its principal assets from an association that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law.

(D) Transition rule

(i) Inclusion in capital

Notwithstanding subparagraph (A), if a savings association's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings association may include in calculating capital the applicable percentage (set forth in clause (i)) of the lesser of—

(I) the savings association's investments in and extensions of credit to the subsidiary on April 12, 1989; or

(II) the savings association's investments in and extensions of credit to the

subsidiary on the date as of which the savings association's capital is being determined.

(ii) Applicable percentage

For purposes of clause (i), the applicable percentage is as follows:

For the following period:	The applicable percentage is:
Prior to July 1, 1990	100 percent
July 1, 1990–June 30, 1991	90 percent
July 1, 1991–October 31, 1992	75 percent
November 1, 1992–June 30, 1993	60 percent
July 1, 1993–June 30, 1994	40 percent
Thereafter	0 percent

(iii) Agency discretion to prescribe greater percentage

Subject to clauses (iv), (v), and (vi), the Director may prescribe by order, with respect to a particular qualified savings association, an applicable percentage greater than that provided in clause (ii) if the Director determines, in the Director's sole discretion, that the use of the greater percentage, under the circumstances—

- (I) would not constitute an unsafe or unsound practice;
- (II) would not increase the risk to the Deposit Insurance Fund; and
- (III) would not be likely to result in the association's being in an unsafe or unsound condition.

(iv) Substantial compliance with approved capital plan

In the case of a savings association which is subject to a plan submitted under paragraph (7)(D) of this subsection or an order issued under this subsection, a directive issued or plan approved under subsection (s) of this section, or a capital restoration plan approved or order issued under section 38 or 39 of the Federal Deposit Insurance Act [12 U.S.C. 1831o, 1831p–1], an order issued under clause (iii) with respect to the association shall be effective only so long as the association is in substantial compliance with such plan, directive, or order.

(v) Limitation on investments taken into account

In prescribing the amount by which an applicable percentage under clause (iii) may exceed the applicable percentage under clause (ii) with respect to a particular qualified savings association, the Director may take into account only the sum of—

- (I) the association's investments in, and extensions of credit to, the subsidiary that were made on or before April 12, 1989; and
- (II) the association's investments in, and extensions of credit to, the subsidiary that were made after April 12, 1989, and were necessary to complete projects initiated before April 12, 1989.

(vi) Limit

The applicable percentage limit allowed by the Director in an order under clause (iii) shall not exceed the following limits:

For the following period:

Prior to July 1, 1994	The limit is: 75 percent
July 1, 1994 through June 30, 1995	60 percent
July 1, 1995 through June 30, 1996	40 percent
After June 30, 1996	0 percent

(vii) Critically undercapitalized institution

In the case of a savings association that becomes critically undercapitalized (as defined in section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831o]) as determined under this subparagraph without applying clause (iii), clauses (iii) through (v) shall be applied by substituting "Corporation" for "Director" each place such term appears.

(viii) "Qualified savings association" defined

For purposes of clause (iii), the term "qualified savings association" means an eligible savings association (as defined in paragraph (3)(B)) which is subject to this paragraph solely because of the real estate investments or other real estate activities of the association's subsidiary, and—

- (I) is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831o]); or
- (II) is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831o], and is not critically undercapitalized (as defined in such section).

(ix) FDIC's discretion to prescribe lesser percentage

The Corporation may prescribe by order, with respect to a particular savings association, an applicable percentage less than that provided in clause (ii) or prescribed under clause (iii) if the Corporation determines, in its sole discretion, that the use of a greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the association's being in an unsafe or unsound condition.

(E) Consolidation of subsidiaries not separately capitalized

In determining compliance with capital standards prescribed under paragraph (1), the assets and liabilities of each of a savings association's subsidiaries (other than any subsidiary described in subparagraph (C)(ii)) shall be consolidated with the savings association's assets and liabilities, unless all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital pursuant to subparagraph (A).

(6) Consequences of failing to comply with capital standards

(A) Prior to January 1, 1991

- Prior to January 1, 1991, the Director—
 - (i) may restrict the asset growth of any savings association not in compliance with capital standards; and
 - (ii) shall, beginning 60 days following the promulgation of final regulations under

this subsection, require any savings association not in compliance with capital standards to submit a plan under subsection (s)(4)(A) of this section that—

(I) addresses the savings association's need for increased capital;

(II) describes the manner in which the savings association will increase its capital so as to achieve compliance with capital standards;

(III) specifies the types and levels of activities in which the savings association will engage;

(IV) requires any increase in assets to be accompanied by an increase in tangible capital not less in percentage amount than the leverage limit then applicable;

(V) requires any increase in assets to be accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable; and

(VI) is acceptable to the Director.

(B) On or after January 1, 1991

On or after January 1, 1991, the Director—

(i) shall prohibit any asset growth by any savings association not in compliance with capital standards, except as provided in subparagraph (C); and

(ii) shall require any savings association not in compliance with capital standards to comply with a capital directive issued by the Director (which may include such restrictions, including restrictions on the payment of dividends and on compensation, as the Director determines to be appropriate).

(C) Limited growth exception

The Director may permit any savings association that is subject to subparagraph (B) to increase its assets in an amount not exceeding the amount of net interest credited to the savings association's deposit liabilities if—

(i) the savings association obtains the Director's prior approval;

(ii) any increase in assets is accompanied by an increase in tangible capital in an amount not less than 6 percent of the increase in assets (or, in the Director's discretion if the leverage limit then applicable is less than 6 percent, in an amount equal to the increase in assets multiplied by the percentage amount of the leverage limit);

(iii) any increase in assets is accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable;

(iv) any increase in assets is invested in low-risk assets, such as first mortgage loans secured by 1- to 4-family residences and fully secured consumer loans; and

(v) the savings association's ratio of core capital to total assets is not less than the ratio existing on January 1, 1991.

(D) Additional restrictions in case of excessive risks or rates

The Director may restrict the asset growth of any savings association that the Director determines is taking excessive risks or paying excessive rates for deposits.

(E) Failure to comply with plan, regulation, or order

The Director shall treat as an unsafe and unsound practice any material failure by a savings association to comply with any plan, regulation, or order under this paragraph.

(F) Effect on other regulatory authority

This paragraph does not limit any authority of the Director under other provisions of law.

(7) Exemption from certain sanctions

(A) Application for exemption

Any savings association not in compliance with the capital standards prescribed under paragraph (1) may apply to the Director for an exemption from any applicable sanction or penalty for noncompliance which the Director may impose under this chapter.

(B) Effect of grant of exemption

If the Director approves any savings association's application under subparagraph (A), the only sanction or penalty to be imposed by the Director under this chapter for the savings association's failure to comply with the capital standards prescribed under paragraph (1) is the growth limitation contained in paragraph (6)(B) or paragraph (6)(C), whichever is applicable.

(C) Standards for approval or disapproval

(i) Approval

The Director may approve an application for an exemption if the Director determines that—

(I) such exemption would pose no significant risk to the Deposit Insurance Fund;

(II) the savings association's management is competent;

(III) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

(IV) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

(ii) Denial or revocation of approval

The Director shall deny any application submitted under clause (i) and revoke any prior approval granted with respect to any such application if the Director determines that the association's failure to meet any capital standards prescribed under paragraph (1) is accompanied by—

(I) a pattern of consistent losses;

(II) substantial dissipation of assets;

(III) evidence of imprudent management or business behavior;

(IV) a material violation of any Federal law, any law of any State to which such association is subject, or any applicable regulation; or

(V) any other unsafe or unsound condition or activity, other than the failure to meet such capital standards.

(D) Submission of plan required

Any application submitted under subparagraph (A) shall be accompanied by a plan which—

- (i) meets the requirements of paragraph (6)(A)(ii); and
- (ii) is acceptable to the Director.

(E) Failure to comply with plan

The Director shall treat as an unsafe and unsound practice any material failure by any savings association which has been granted an exemption under this paragraph to comply with the provisions of any plan submitted by such association under subparagraph (D).

(F) Exemption not available with respect to unsafe or unsound practices

This paragraph does not limit any authority of the Director under any other provision of law, including section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], to take any appropriate action with respect to any unsafe or unsound practice or condition of any savings association, other than the failure of such savings association to comply with the capital standards prescribed under paragraph (1).

(8) Temporary authority to make exceptions for eligible savings associations

(A) In general

Notwithstanding paragraph (1)(C), the Director may, by order, make exceptions to the capital standards prescribed under paragraph (1) for eligible savings associations. No exception under this paragraph shall be effective after January 1, 1991.

(B) Standards for approval or disapproval

In determining whether to grant an exception under subparagraph (A), the Director shall apply the same standards as apply to determinations under paragraph (7)(C).

(9) Definitions

For purposes of this subsection—

(A) Core capital

Unless the Director prescribes a more stringent definition, the term “core capital” means core capital as defined by the Comptroller of the Currency for national banks, less any unidentifiable intangible assets.

(B) Qualifying supervisory goodwill

The term “qualifying supervisory goodwill” means supervisory goodwill existing on April 12, 1989, amortized on a straightline basis over the shorter of—

- (i) 20 years, or
- (ii) the remaining period for amortization in effect on April 12, 1989.

(C) Tangible capital

The term “tangible capital” means core capital minus any intangible assets (as in-

tangible assets are defined by the Comptroller of the Currency for national banks).

(D) Total assets

The term “total assets” means total assets (as total assets are defined by the Comptroller of the Currency for national banks) adjusted in the same manner as total assets would be adjusted in determining compliance with the leverage limit applicable to national banks if the savings association were a national bank.

(10) Use of Comptroller’s definitions

(A) In general

The standards prescribed under paragraph (1) shall include all relevant substantive definitions established by the Comptroller of the Currency for national banks.

(B) Special rule

If the Comptroller of the Currency has not made effective regulations defining core capital or establishing a risk-based capital standard, the Director shall use the definition and standard contained in the Comptroller’s most recently published final regulations.

(u) Limits on loans to one borrower

(1) In general

Section 5200 of the Revised Statutes [12 U.S.C. 84] shall apply to savings associations in the same manner and to the same extent as it applies to national banks.

(2) Special rules

(A) Notwithstanding paragraph (1), a savings association may make loans to one borrower under one of the following clauses:

- (i) For any purpose, not to exceed \$500,000.
- (ii) To develop domestic residential housing units, not to exceed the lesser of \$30,000,000 or 30 percent of the savings association’s unimpaired capital and unimpaired surplus, if—

(I) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under subsection (t) of this section;

(II) the Director, by order, permits the savings association to avail itself of the higher limit provided by this clause;

(III) loans made under this clause to all borrowers do not, in aggregate, exceed 150 percent of the savings association’s unimpaired capital and unimpaired surplus; and

(IV) such loans comply with all applicable loan-to-value requirements.

(B) A savings association’s loans to one borrower to finance the sale of real property acquired in satisfaction of debts previously contracted in good faith shall not exceed 50 percent of the savings association’s unimpaired capital and unimpaired surplus.

(3) Authority to impose more stringent restrictions

The Director may impose more stringent restrictions on a savings association’s loans to one borrower if the Director determines that such restrictions are necessary to protect the

safety and soundness of the savings association.

(v) Reports of condition

(1) In general

Each association shall make reports of conditions to the Director which shall be in a form prescribed by the Director and shall contain—

(A) information sufficient to allow the identification of potential interest rate and credit risk;

(B) a description of any assistance being received by the association, including the type and monetary value of such assistance;

(C) the identity of all subsidiaries and affiliates of the association;

(D) the identity, value, type, and sector of investment of all equity investments of the associations and subsidiaries; and

(E) other information that the Director may prescribe.

(2) Public disclosure

(A) Reports required under paragraph (1) and all information contained therein shall be available to the public upon request, unless the Director determines—

(i) that a particular item or classification of information should not be made public in order to protect the safety or soundness of the institution concerned or institutions concerned, or the Deposit Insurance Fund; or

(ii) that public disclosure would not otherwise be in the public interest.

(B) Any determination made by the Director under subparagraph (A) not to permit the public disclosure of information shall be made in writing, and if the Director restricts any item of information for savings institutions generally, the Director shall disclose the reason in detail in the Federal Register.

(C) The Director's determinations under subparagraph (A) shall not be subject to judicial review.

(3) Access by certain parties

(A) Notwithstanding paragraph (2), the persons described in subparagraph (B) shall not be denied access to any information contained in a report of condition, subject to reasonable requirements of confidentiality. Those requirements shall not prevent such information from being transmitted to the Comptroller General of the United States for analysis.

(B) The following persons are described in this subparagraph for purposes of subparagraph (A):

(i) the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and their designees; and

(ii) the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and their designees.

(4) First tier penalties

Any savings association which—

(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

(i) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

(ii) submits or publishes any false or misleading report or information; or

(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The savings association shall have the burden of proving by a preponderance⁵ of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

(5) Second tier penalties

Any savings association which—

(A) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (4) shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(6) Third tier penalties

If any savings association knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (5) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than \$1,000,000 or 1 percent of total assets, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(7) Assessment

Any penalty imposed under paragraph (4), (5), or (6) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)(E), (F), (G), (I)] (for penalties imposed under such section), and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

(8) Hearing

Any savings association against which any penalty is assessed under this subsection shall be afforded a hearing if such savings association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act [12 U.S.C. 1818(h)] shall apply to any proceeding under this subsection.

⁵ So in original. Probably should be "preponderance".

(w) Forfeiture of franchise for money laundering or cash transaction reporting offenses**(1) In general****(A) Conviction of title 18 offense****(I) Duty to notify**

If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

(II) Notice of termination; pretermination hearing

After receiving written notification from the Attorney General of such a conviction, the Director shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

(B) Conviction of title 31 offenses

If a Federal savings association is convicted of any criminal offense under section 5322 or 5324 of title 31 after receiving written notification from the Attorney General, the Director may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

(C) Judicial review

Subsection (d)(1)(B)(vii) of this section shall apply to any proceeding under this subsection.

(2) Factors to be considered

In determining whether a franchise shall be forfeited under paragraph (1), the Director shall take into account the following factors:

(A) The extent to which directors or senior executive officers of the savings association knew of, were⁶ involved in, the commission of the money laundering offense of which the association was found guilty.

(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

(3) Successor liability

This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

(4) "Senior executive officer" defined

The term "senior executive officer" has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act [12 U.S.C. 1831i(f)].

(x) Home State citizenship

In determining whether a Federal court has diversity jurisdiction over a case in which a Federal savings association is a party, the Federal savings association shall be considered to be a citizen only of the State in which such savings association has its home office.

(June 13, 1933, ch. 64, § 5, 48 Stat. 132; Apr. 27, 1934, ch. 168, §§ 5, 6, 48 Stat. 645, 646; May 28, 1935, ch. 150, § 18, 49 Stat. 297; Aug. 10, 1939, ch. 666, title IX, § 909, 53 Stat. 1402; Aug. 6, 1947, ch. 503, 61 Stat. 786; July 3, 1948, ch. 825, § 1, 62 Stat. 1239; Oct. 20, 1951, ch. 521, title III, § 313(d), 65 Stat. 490; July 14, 1952, ch. 723, § 12, 66 Stat. 604; Aug. 2, 1954, ch. 649, title II, § 204(b), title V, § 503, 68 Stat. 622, 634; Aug. 11, 1955, ch. 783, title I, § 110, 69 Stat. 641; Aug. 7, 1956, ch. 1029, title VI, § 604, 70 Stat. 1114; Pub. L. 85-857, § 13(f), Sept. 2, 1958, 72 Stat. 1264; Pub. L. 86-372, title VIII, § 805, Sept. 23, 1959, 73 Stat. 687; Pub. L. 86-507, § 1(11), June 11, 1960, 74 Stat. 200; Pub. L. 87-70, title IX, § 901, June 30, 1961, 75 Stat. 189; Pub. L. 87-779, § 1, Oct. 9, 1962, 76 Stat. 778; Pub. L. 87-834, § 6(e)(1), Oct. 16, 1962, 76 Stat. 984; Pub. L. 88-560, title IX, §§ 901(a), 902-905, 907, 908, 910, Sept. 2, 1964, 78 Stat. 804-806; Pub. L. 89-117, title II, § 201(b)(3), title XI, § 1110(a)-(c), Aug. 10, 1965, 79 Stat. 465, 507; Pub. L. 89-695, title I, § 101(a), Oct. 16, 1966, 80 Stat. 1028; Pub. L. 90-448, title III, § 304(b), title IV, § 416(c), title VIII, §§ 804(e), 807(m), title XVII, § 1716, Aug. 1, 1968, 82 Stat. 508, 518, 543, 545, 608; Pub. L. 90-505, § 5, Sept. 21, 1968, 82 Stat. 858; Pub. L. 90-575, title I, § 118(b), Oct. 16, 1968, 82 Stat. 1026; Pub. L. 91-152, title IV, § 416(b), Dec. 24, 1969, 83 Stat. 401; Pub. L. 91-351, title VII, §§ 706, 708, 709, July 24, 1970, 84 Stat. 462, 463; Pub. L. 91-609, title VII, § 727(d), title IX, § 907(b), (c), Dec. 31, 1970, 84 Stat. 1803, 1811; Pub. L. 92-318, title I, § 133(c)(3), June 23, 1972, 86 Stat. 270; Pub. L. 93-100, § 5(b), Aug. 16, 1973, 87 Stat. 343; Pub. L. 93-383, title VII, §§ 702-706, title VIII, §§ 802(i)(2), 805(c)(4), Aug. 22, 1974, 88 Stat. 715, 716, 725, 727; Pub. L. 93-449, § 4(d), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 93-495, title I, § 101(e), Oct. 28, 1974, 88 Stat. 1502; Pub. L. 94-60, July 25, 1975, 89 Stat. 301; Pub. L. 94-375, § 22, Aug. 3, 1976, 90 Stat. 1078; Pub. L. 95-128, title IV, §§ 401-405, Oct. 12, 1977, 91 Stat. 1136, 1137; Pub. L. 95-147, § 2(a), Oct. 28, 1977, 91 Stat. 1227; Pub. L. 95-630, title I, §§ 107(a)(3), (c)(3), (d)(3), (e)(3), 111(c), title II, § 208(b), title XII, §§ 1202, 1204, title XVII, § 1701, Nov. 10, 1978, 92 Stat. 3651, 3655, 3659, 3662, 3668, 3675, 3710, 3711, 3714; Pub. L. 96-153, title III, §§ 325, 326, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 96-161, title I, § 102,

⁶So in original. Probably should be "or were".

Dec. 28, 1979, 93 Stat. 1233; Pub. L. 96-221, title III, §§ 304, 307, title IV, §§ 401-404, 407(a), 408, Mar. 31, 1980, 94 Stat. 146, 147, 151, 155, 156, 158-160; Pub. L. 97-320, title I, §§ 112, 114(b), (c), 121, 141(a)(2), (5), title II, § 202(b), title III, §§ 311-313, 321-325, 328-331, 334, 351, title IV, §§ 424(a), (d)(8), (e), 427(a), Oct. 15, 1982, 96 Stat. 1471, 1475, 1479, 1489, 1492, 1496, 1497, 1499-1504, 1507, 1522-1524; Pub. L. 97-457, §§ 2, 12, 14(a)(1), (b), Jan. 12, 1983, 96 Stat. 2507, 2508; Pub. L. 98-440, title I, § 105(a), Oct. 3, 1984, 98 Stat. 1691; Pub. L. 98-620, title IV, § 402(9), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-570, title I, § 1359(b), Oct. 27, 1986, 100 Stat. 3207-27; Pub. L. 100-86, title IV, §§ 406(a), 413(a), title V, § 509(a), Aug. 10, 1987, 101 Stat. 614, 621, 635; Pub. L. 101-73, title III, § 301, Aug. 9, 1989, 103 Stat. 282; Pub. L. 102-242, title I, §§ 131(d), 133(d), title IV, § 441, title V, § 501(c), Dec. 19, 1991, 105 Stat. 2267, 2271, 2381, 2391; Pub. L. 102-310, July 1, 1992, 106 Stat. 276; Pub. L. 102-550, title IX, § 953, title XV, § 1502(b), title XVI, §§ 1603(d)(8), 1606(f)(1)-(3), Oct. 28, 1992, 106 Stat. 3893, 4046, 4080, 4088; Pub. L. 103-325, title II, § 206(a), title III, § 322(b), title IV, § 411(c)(2)(D), Sept. 23, 1994, 108 Stat. 2199, 2227, 2253; Pub. L. 104-208, div. A, title II, §§ 2216(b), 2303(a)-(d), (f), 2704(d)(12)(A), Sept. 30, 1996, 110 Stat. 3009-413, 3009-424, 3009-490; Pub. L. 105-164, § 3(a)(1), Mar. 20, 1998, 112 Stat. 33; Pub. L. 106-102, title VI, § 603, title VII, § 739, Nov. 12, 1999, 113 Stat. 1450, 1480; Pub. L. 106-554, § 1(a)(8) [§ 1(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A-665; Pub. L. 106-569, title XII, § 1201(b)(1), Dec. 27, 2000, 114 Stat. 3032; Pub. L. 109-171, title II, § 2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, § 9(e)(1), Feb. 15, 2006, 119 Stat. 3617; Pub. L. 109-351, title IV, §§ 402-404, title VI, § 608(a), Oct. 13, 2006, 120 Stat. 1974, 1983; Pub. L. 111-203, title III, § 369(5), title VI, §§ 610(b), 612(c), 627(a)(2), July 21, 2010, 124 Stat. 1559, 1612, 1613, 1640.)

AMENDMENT OF SECTION

Pub. L. 111-203, title VI, § 627(a)(2), (b), July 21, 2010, 124 Stat. 1640, provided that, effective 1 year after July 21, 2010, the first sentence of subsection (b)(1)(B) of this section is amended by substituting “savings association may not permit any” for “savings association may not—” and all that follows through “(ii) permit any”. See Effective Date of 2010 Amendment note below.

Pub. L. 111-203, title VI, § 610(b), (c), July 21, 2010, 124 Stat. 1612, provided that, effective 1 year after the transfer date, subsection (u)(3) of this section is amended by substituting “Comptroller of the Currency” for “Director” wherever appearing. See Effective Date of 2010 Amendment note below.

Pub. L. 111-203, title III, §§ 351, 369(5), July 21, 2010, 124 Stat. 1546, 1559, provided that, effective on the transfer date, this section is amended:

(1) in subsections (a) and (b), by substituting “Comptroller of the Currency” for “Director” wherever appearing;

(2) in subsection (c)(5)—

(A) in subparagraph (A), by substituting “appropriate Federal banking agency” for “Director”; and

(B) in subparagraph (B), by substituting “The appropriate Federal banking agency” for

“The Director” and “the appropriate Federal banking agency” for “the Director”;

(3) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in the first sentence, by substituting “appropriate Federal banking agency” for “Director”;

(II) in the second sentence—

(aa) by substituting “name of the appropriate Federal banking agency and through the attorneys of the appropriate Federal banking agency” for “Director’s own name and through the Director’s own attorneys”; and

(bb) by substituting “appropriate Federal banking agency” for “Director” wherever appearing; and

(III) in the third sentence, by substituting “Comptroller” for “Director” wherever appearing;

(ii) in subparagraph (B)—

(I) in clauses (i) to (iv), by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(II) in clause (v)—

(aa) in the matter preceding subclause (I), by substituting “appropriate Federal banking agency” for “Director”;

(bb) in subclause (II), by substituting “subpoenas” for “subpenas”; and

(cc) in the matter following subclause (II), by substituting “subpoena” for “subpena”;

(III) in clause (vi)—

(aa) in the first sentence, by substituting “appropriate Federal banking agency” for “Director”; and

(bb) in the second sentence, by substituting “Comptroller” for “Director”; and

(IV) in clause (vii)—

(aa) in the first sentence, by substituting “subpoena” for “subpena”;

(bb) in the second sentence, by substituting “subpoenaed” for “subpenaed”; and

(cc) in the third sentence, by substituting “appropriate Federal banking agency” for “Director”;

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by substituting “appropriate Federal banking agency” for “Director of the Office of Thrift Supervision”;

(II) by substituting “an insured savings association” for “any insured savings association”; and

(III) by substituting “appropriate Federal banking agency determines, in the discretion of the appropriate Federal banking agency” for “Director determines, in the Director’s discretion”;

(ii) in subparagraph (B), by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(iii) in subparagraphs (C) and (D), by substituting “appropriate Federal banking agency” for “Director”; and

(iv) in subparagraph (E)—

(I) in clause (ii)—

(aa) in the heading, by striking out “or RTC”; and

(bb) by striking out “or the Resolution Trust Corporation, as appropriate,” wherever appearing; and

(II) by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(C) in paragraph (3)—

(i) in subparagraph (A), by substituting “Comptroller” for “Director” wherever appearing; and

(ii) in subparagraph (B)—

(I) in the heading, by striking out “or RTC”;

(II) by striking out “Corporation or the Resolution Trust”; and

(III) by substituting “Comptroller” for “Director”;

(D) in paragraph (4), by substituting “appropriate Federal banking agency” for “Director”;

(E) in paragraph (6)—

(i) in subparagraph (A), by substituting “Comptroller” for “Director”; and

(ii) in subparagraphs (B) and (C), by substituting “appropriate Federal banking agency” for “Director” wherever appearing; and

(F) in paragraph (7)—

(i) in subparagraphs (A), (B), and (D), by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(ii) in subparagraph (C), by substituting “Federal Deposit Insurance Corporation or the Comptroller, as appropriate,” for “Director”; and

(iii) striking out subparagraph (E) and adding the following:

“(E) Administration by the Comptroller and the Corporation

“The Comptroller may issue such regulations, and the appropriate Federal banking agency may issue such orders, including those issued pursuant to section 8 of the Federal Deposit Insurance Act, as may be necessary to administer and carry out this paragraph and to prevent evasion of this paragraph.”;

(4) in subsection (e)(2), by substituting “Comptroller” for “Director”;

(5) in subsection (i)—

(A) by substituting “Comptroller” for “Director” wherever appearing;

(B) in paragraph (2), in the heading, by substituting “Comptroller” for “Director”;

(C) in paragraph (5)(A), by striking out “of the Currency”; and

(D) except as provided in subparagraphs (A) to (C), by substituting “Comptroller” for “Director” wherever appearing;

(6) in subsections (m), (n), (o), and (p), by substituting “Comptroller” for “Director” wherever appearing;

(7) in subsection (o)—

(A) in paragraph (1), by substituting “Comptroller” for “Director”; and

(B) in paragraph (2)(B), by substituting “determination of the Comptroller” for “Director’s determination”;

(8) in subsection (q)—

(A) in paragraph (6), by striking out “of Governors of the Federal Reserve System”;

(B) by substituting “Board” for “Director” wherever appearing; and

(C) by inserting “in consultation with the Comptroller and the Corporation,” before “considers”;

(9) in subsection (r)(3), by substituting “Comptroller of the Currency” for “Director”;

(10) in subsection (s)—

(A) in paragraphs (1) and (2), by substituting “Comptroller of the Currency” for “Director”;

(B) in paragraph (3), by substituting “discretion of the appropriate Federal banking agency, the appropriate Federal banking agency,” for “Director’s discretion, the Director”;

(C) in paragraph (4), by substituting “appropriate Federal banking agency” for “Director” wherever appearing; and

(D) in paragraph (5)—

(i) by substituting “appropriate Federal banking agency” for “Director” wherever appearing; and

(ii) by substituting “approval of the appropriate Federal banking agency” for “Director’s approval”;

(11) in subsection (t)—

(A) in paragraph (1), by striking out subparagraph (D);

(B) by striking out paragraph (3) and adding the following:

“(3) [Repealed].”;

(C) in paragraph (5)—

(i) in subparagraph (B), by substituting “appropriate Federal banking agency, in the sole discretion of the appropriate Federal banking agency” for “Corporation, in its sole discretion”; and

(ii) by striking out subparagraph (D);

(D) in paragraph (6)—

(i) by striking out subparagraph (A) and adding the following:

“(A) [Reserved].”;

(ii) in subparagraph (B), by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(iii) in subparagraph (C)—

(I) in clause (i), by substituting “prior approval of the appropriate Federal banking agency” for “Director’s prior approval”;

(II) in clause (ii), by substituting “discretion of the appropriate Federal banking agency” for “Director’s discretion”; and

(III) by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(iv) in subparagraph (E), by substituting “appropriate Federal banking agency may” for “Director shall”; and

(v) in subparagraph (F), by substituting “appropriate Federal banking agency under this chapter or any other provision of law.” for “Director” and all that follows through the end;

(E) in paragraph (7), by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(F) by striking out paragraph (8) and adding the following:

“(8) [Repealed].”;

(G) in paragraph (9)—

(i) in subparagraph (A), by substituting “Comptroller” for “Director”;

(ii) in subparagraph (C), by striking out “of the Currency”; and

(iii) by striking out subparagraph (B) and redesignating subparagraphs (C) and (D) as (B) and (C), respectively; and

(H) except as provided in subparagraphs (A) to (G), by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(12) in subsection (u)—

(A) by substituting “appropriate Federal banking agency” for “Director” wherever appearing; and

(B) in paragraph (3), by substituting “Comptroller of the Currency” for “Director” wherever appearing;

(13) in subsection (v)—

(A) in paragraph (2), by substituting “determinations of the appropriate Federal banking agency” for “Director’s determinations”; and

(B) by substituting “appropriate Federal banking agency” for “Director” wherever appearing;

(14) in subsection (w), in subparagraphs (A)(II) and (B), by substituting “intention of the Comptroller” for “Director’s intention”; and

(15) except as provided in paragraphs (1) to (9), by substituting “Comptroller” for “Director” wherever appearing.

See Effective Date of 2010 Amendment note below.

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (c)(1)(I), (O)(i), (P), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§1701 et seq.) of this title. Title X of the National Housing Act is title X of act June 27, 1934, ch. 847, as added by act Aug. 10, 1965, Pub. L. 89-117, title II, §201(a), 79 Stat. 461, which was classified generally to subchapter IX-A (§1749aa et seq.) of chapter 13 of this title, and was repealed by Pub. L. 101-235, title I, §133(a), Dec. 15, 1989, 103 Stat. 2027. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The Servicemen’s Readjustment Act of 1944, referred to in subsec. (c)(1)(I), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§§693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans’ Relief, and which was repealed by section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1273, the first section of which enacted Title 38, Veterans’ Benefits. For distribution of sections 693 to 697g of former Title 38 to Title 38, Veterans’ Benefits, see Table preceding section 101 of Title 38, Veterans’ Benefits.

The Housing and Urban Development Act of 1968, referred to in subsec. (c)(1)(N), (O)(ii), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IX of the Act is classified principally to chapter 49 (§3931 et seq.) of Title 42, The Public Health and Welfare. Title IV of the Housing and Urban Development Act, which was classified to chapter 48 (§3901 et seq.) of Title 42, was repealed, with certain exceptions which were omitted from the Code, by Pub. L. 98-181, title IV, §474(e), Nov. 30, 1983, 97 Stat. 1239. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

The National Urban Policy and New Community Development Act of 1970, referred to in subsec. (c)(1)(O)(ii), is title VII of Pub. L. 91-609, Dec. 31, 1970, 84 Stat. 1791, as amended. Part B of the Act is classified generally to part B (§4511 et seq.) of chapter 59 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4501 of Title 42 and Tables.

Section 802 of the Housing and Community Development Act of 1974, referred to in subsec. (c)(1)(O)(ii), enacted section 1440 of Title 42, and amended sections 371 and 1464 of this title.

The Investment Company Act of 1940, referred to in subsec. (c)(1)(Q)(i), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (c)(3)(A), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

Section 224 of such Act [22 U.S.C. 2184], referred to in subsec. (c)(4)(C), means section 224 of the Foreign Assistance Act of 1961, which related to housing projects in Latin American countries and was eliminated in the general amendment made by section 105 of the Foreign Assistance Act of 1969 (Pub. L. 91-175). See section 222 of such Act [22 U.S.C. 2182].

Section 301(d) of the Small Business Investment Act of 1958, referred to in subsec. (c)(4)(D), which was classified to section 681(d) of Title 15, Commerce and Trade, was repealed by Pub. L. 104-208, div. D, title II, §208(b)(3)(A), Sept. 30, 1996, 110 Stat. 3009-742.

Section 5(d)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(3)], referred to in subsec. (c)(5)(A), which related to optional conversions by insured depository institutions subject to special rules on deposit insurance payments, was repealed and section 5(d)(1)(C) was redesignated section 5(d)(3) by Pub. L. 109-173, §8(a)(4), (5)(D), Feb. 15, 2006, 119 Stat. 3610, 3611.

The Federal Rules of Civil Procedure, referred to in subsec. (d)(1)(A), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Deposit Insurance Act, referred to in subsec. (d)(2)(E)(i), (3)(B), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

The Federal Home Loan Bank Act, referred to in subsec. (f), is act July 22, 1932, ch. 522, 47 Stat. 725, as amended, which is classified generally to chapter 11 (§1421 et seq.) of this title. For complete classification of this Act to the Code, see section 1421 of this title and Tables.

AMENDMENTS

2010—Subsec. (i)(6). Pub. L. 111-203, §612(c), added par. (6).

2006—Subsec. (c)(5)(A). Pub. L. 109-173, §9(e)(1)(A), struck out “that is a member of the Bank Insurance Fund” after “assets of a bank”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(i). See 1996 Amendment note below.

Subsec. (c)(6). Pub. L. 109-173, §9(e)(1)(B), substituted “For purposes of this subsection, the following definitions shall apply:” for “As used in this subsection—” in introductory provisions.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(ii). See 1996 Amendment note below.

Subsec. (i)(5). Pub. L. 109-351, §608(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

“(A) IN GENERAL.—Any Federal savings association chartered and in operation before November 12, 1999, with branches in operation before November 12, 1999, in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency or the appropriate State bank supervisor, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before November 12, 1999, in 1 or more States, but only if each resulting national or State bank will meet all financial, management, and capital requirements applicable to the resulting national or State bank.

“(B) DEFINITIONS.—For purposes of this paragraph, the terms ‘State bank’ and ‘State bank supervisor’ have the meanings given those terms in section 3 of the Federal Deposit Insurance Act.”

Subsec. (o)(1). Pub. L. 109-173, §9(e)(1)(C), struck out “that is a Bank Insurance Fund member” after “State-chartered savings bank”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(iii). See 1996 Amendment note below.

Subsec. (o)(2)(A). Pub. L. 109-173, §9(e)(1)(D), substituted “insured by the Deposit Insurance Fund” for “a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(iv). See 1996 Amendment note below.

Subsec. (t)(4). Pub. L. 109-351, §402(1), substituted “(4) [Repealed].” for provisions relating to special rules for purchased mortgage servicing rights.

Subsec. (t)(5)(D)(iii)(II), (7)(C)(i)(I). Pub. L. 109-173, §9(e)(1)(E), (F), substituted “Deposit Insurance Fund” for “affected deposit insurance fund”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(v), (vi). See 1996 Amendment note below.

Subsec. (t)(9)(A). Pub. L. 109-351, §402(2), substituted “intangible assets.” for “intangible assets, plus any purchased mortgage servicing rights excluded from the Comptroller’s definition of capital but included in calculating the core capital of savings associations pursuant to paragraph (4).”

Subsec. (u)(2)(A)(i). Pub. L. 109-351, §404(1), substituted “For any” for “for any” and a period for “; or” at end.

Subsec. (u)(2)(A)(ii). Pub. L. 109-351, §404(2), substituted “To develop domestic” for “to develop domestic” in introductory provisions, redesignated subcls. (II) to (V) as (I) to (IV), respectively, and struck out former subcl. (I) which read as follows: “the purchase price of each single family dwelling unit the development of which is financed under this clause does not exceed \$500,000;”.

Subsec. (v)(2)(A)(i). Pub. L. 109-173, §9(e)(1)(G), substituted “or the Deposit Insurance Fund” for “the Savings Association Insurance Fund”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(vii). See 1996 Amendment note below.

Subsec. (x). Pub. L. 109-351, §403, added subsec. (x).

2000—Subsec. (c)(1)(M). Pub. L. 106-569 amended heading and text generally. Prior to amendment, text read as follows: “Investments which, when made, are of a type that may be used to satisfy any liquidity requirement imposed by the Director pursuant to section 1465 of this title.”

Subsec. (c)(4)(F). Pub. L. 106-554 added subpar. (F).

1999—Subsec. (f). Pub. L. 106-102, §603, amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “Each Federal savings association, upon receiving its charter, shall become automatically a member of the Federal home loan bank of the district in which it is located, or if convenience requires and the Director approves, shall become a member of a Federal home loan bank of an adjoining district. Such associations shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act with respect to other members.”

Subsec. (i)(5). Pub. L. 106-102, §739, added par. (5).

1998—Subsec. (d)(7), (8). Pub. L. 105-164 added pars. (7) and (8).

1996—Subsec. (b)(4), (5). Pub. L. 104-208, §2303(a), redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: “Subject to regulations of the Director, a Federal savings association may issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.”

Subsec. (c)(1)(T), (U). Pub. L. 104-208, §2303(b), added subpars. (T) and (U).

Subsec. (c)(2)(A). Pub. L. 104-208, §2303(c), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: “Secured or unse-

cured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans under this paragraph shall not exceed 10 percent of the assets of the Federal savings association.”

Subsec. (c)(3). Pub. L. 104-208, §2303(d), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out heading and text of former subpar. (A). Text read as follows: “Loans made for the payment of educational expenses.”

Subsec. (c)(5)(A). Pub. L. 104-208, §2704(d)(12)(A)(i), which directed the amendment of subpar. (A) by striking “that is a member of the Bank Insurance Fund”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (c)(6). Pub. L. 104-208, §2704(d)(12)(A)(ii), which directed the amendment of par. (6) by substituting “For purposes of this subsection, the following definitions shall apply:” for “As used in this subsection—”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (o)(1). Pub. L. 104-208, §2704(d)(12)(A)(iii), which directed the amendment of par. (1) by striking “that is a Bank Insurance Fund member”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (o)(2)(A). Pub. L. 104-208, §2704(d)(12)(A)(iv), which directed the amendment of subpar. (A) by substituting “insured by the Deposit Insurance Fund” for “a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (q)(6). Pub. L. 104-208, §2216(b), added par. (6).

Subsec. (r)(1). Pub. L. 104-208, §2303(f)(1), in first sentence, substituted “subparagraph (C) of that section” for “subparagraph (c) of that section” and inserted before period at end “, or qualifies as a qualified thrift lender, as determined under section 1467a(m) of this title” and, in second sentence, inserted before period at end “or as a qualified thrift lender, as determined under section 1467a(m) of this title, as applicable”.

Subsec. (r)(2)(C). Pub. L. 104-208, §2303(f)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: “the law of the State where the branch would be located would permit the branch to be established if the branch were a Federal savings association chartered by the State in which its home office is located; or”.

Subsec. (t)(5)(D)(iii)(II), (7)(C)(i)(I). Pub. L. 104-208, §2704(d)(12)(A)(v), (vi), which directed the substitution of “Deposit Insurance Fund” for “affected deposit insurance fund”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (v)(2)(A)(i). Pub. L. 104-208, §2704(d)(12)(A)(vii), which directed the amendment of cl. (i) by substituting “or the Deposit Insurance Fund” for “, the Savings Association Insurance Fund”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1994—Subsec. (c)(1)(S). Pub. L. 103-325, §206(a), added subpar. (S).

Subsec. (c)(4)(E). Pub. L. 103-325, §322(b), added subpar. (E).

Subsec. (w)(1)(B). Pub. L. 103-325, §411(c)(2)(D), substituted “section 5322 or 5324 of title 31” for “section 5322 of title 31”.

1992—Subsec. (c)(2)(B)(iii). Pub. L. 102-550, §1606(f)(1), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association’s condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations”.

Subsec. (c)(2)(C). Pub. L. 102-550, § 1606(f)(2), struck out comma after “including”.

Subsec. (c)(2)(D). Pub. L. 102-550, § 1606(f)(3), inserted before period at end of last sentence “, except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party”.

Subsec. (d)(2)(A). Pub. L. 102-550, § 1603(d)(8), inserted period at end.

Subsec. (t)(5)(D)(ii). Pub. L. 102-310 substituted “October 31, 1992” for “June 30, 1992” and “November 1, 1992” for “July 1, 1992”.

Subsec. (t)(5)(D)(iii) to (ix). Pub. L. 102-550, § 953, added cls. (iii) to (viii), redesignated former cl. (iii) as (ix), and inserted “or prescribed under clause (iii)” after “clause (ii)”.

Subsec. (w). Pub. L. 102-550, § 1502(b), added subsec. (w).

1991—Subsec. (c)(2)(B). Pub. L. 102-242, § 441(b), which directed amendment of subpar. (B) by inserting before period at end the following: “, provided however, that no amount in excess of 30 percent of the assets may be invested in loans made directly by the association to the original obligor, and the association does not pay finder, referral, or other fees, directly or indirectly, to a third party.”, could not be executed because subpar. (B) did not contain a period at end thereof. The new language probably was intended to be inserted before period at end of subpar. (D).

Subsec. (c)(2)(D). Pub. L. 102-242, § 441(a), substituted “35 percent” for “30 percent”.

Subsec. (c)(5), (6). Pub. L. 102-242, § 501(c), added par. (5) and redesignated former par. (5) as (6).

Subsec. (d)(2). Pub. L. 102-242, § 133(d), added subpar. (A), redesignated subpars. (E) to (I) as (B) to (F), respectively, and struck out former subpars. (A) to (D) which related to grounds for appointment of conservator or receiver for Federal savings associations, additional grounds for appointment of such conservator or receiver, grounds for appointment of conservator or receiver for State savings associations, and approval of State officials, respectively.

Subsec. (t)(7)(A), (B). Pub. L. 102-242, § 131(d), inserted “under this chapter” before period at end of subpar. (A) and after “imposed by the Director” in subpar. (B).

1989—Pub. L. 101-73 amended section generally, substituting subsecs. (a) to (f), (h), (i), and (k) to (v) relating to Federal savings associations for former subsecs. (a) to (s) relating to thrift institutions, and repealing subsecs. (g) and (j).

1987—Pub. L. 100-86, § 509(a), repealed Pub. L. 97-320, § 141. See 1982 Amendment note below.

Subsec. (d)(6)(E). Pub. L. 100-86, § 413(a), added subpar. (E).

Subsec. (s). Pub. L. 100-86, § 406(a), added subsec. (s). 1986—Subsec. (d)(8)(B)(i). Pub. L. 99-570, § 1359(b)(2), inserted reference to par. (16) of this subsection.

Subsec. (d)(16). Pub. L. 99-570, § 1359(b)(1), added par. (16).

Subsecs. (l), (r)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1984—Subsec. (c)(1)(S). Pub. L. 98-440 added subpar. (S).

Subsec. (d)(6)(A). Pub. L. 98-620 struck out provision that such proceedings had to be given precedence over other cases pending in such courts, and had to be in every way expedited.

1983—Subsec. (b)(1)(B). Pub. L. 97-457, § 12, inserted “may accept a demand account from itself and” after “An association”.

Subsec. (c)(3)(D). Pub. L. 97-457, § 14(a)(1), added subpar. (D).

Subsec. (o)(1). Pub. L. 97-457, § 2, inserted “examination,” after “operation.”

Subsec. (r)(2)(B). Pub. L. 97-457, § 14(b), substituted “prior to the enactment of the Garn-St Germain Depository Institutions Act” for “prior to the enactment of

the Depository Institutions Amendments”. Because the phrase had been translated as “prior to October 15, 1982” the amendment resulted in no change in text.

1982—Subsec. (a). Pub. L. 97-320, § 311, substituted provisions that in order to provide thrift institutions for the deposit or investment of funds and for the extension of credit for homes and other goods and services, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings and loan associations, or Federal savings banks, and to issue charters therefor, giving primary consideration to the best practices of thrift institutions in the United States and that the lending and investment authorities are conferred by this section to provide such institutions the flexibility necessary to maintain their role of providing credit for housing for provisions which authorized the Board to provide for organization, etc. of Federal Savings and Loan Associations or Federal Mutual Savings Banks, and detailed the requirements as to associations which were State mutual savings banks or other associations which were formerly organized as savings banks under State law.

Subsec. (b)(1)(A). Pub. L. 97-320, § 312, designated existing first sentence as subpar. (A), struck out from parenthetical phrase “and all of which shall have the same priority upon liquidation” after “savings accounts”, authorized the raising of capital in the form of demand accounts of persons or organizations that have a business, corporate, commercial, or agricultural relationship with the association, and substituted “evidence of accounts” for “evidence of savings accounts”.

Subsec. (b)(1)(B). Pub. L. 97-320, § 312, designated existing second sentence as subpar. (B); authorized an association to accept demand accounts from a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments thereto by a non-business customer; barred an association from payment of interest on a demand account; inserted requirement that “All savings accounts and demand accounts shall have the same priority upon liquidation”, incorporating such requirement for savings accounts from existing first sentence; and substituted “Holder of accounts” for “Holder of savings accounts”.

Subsec. (b)(1)(C). Pub. L. 97-320, § 312, designated existing third sentence as subpar. (C) and substituted “an association’s charter” for “the association’s charter” and “fourteen” days for “thirty” days in two places.

Subsec. (b)(1)(D). Pub. L. 97-320, § 312, designated existing fourth sentence as subpar. (D), substituted “accounts” for “savings accounts”, and inserted in parenthetical phrase “, where applicable.”.

Subsec. (b)(1)(E). Pub. L. 97-320, § 312, designated existing fifth sentence as subpar. (E) and substituted “Accounts may be subject” for “Savings accounts shall not be subject” and “transferable or other order or authorization to the association, as the Board may by regulation provide” for “transferable order or authorization to the association, but the Board may by regulation provide for withdrawal or transfer of savings accounts upon nontransferable order or authorization”.

Subsec. (b)(1)(F). Pub. L. 97-320, § 312, designated existing sixth sentence as subpar. (F) and substituted “Notwithstanding any limitation of this section, associations may establish remote service units” for “This section does not prohibit the establishment of remote service units by associations” and “crediting savings or demand accounts” for “crediting existing savings accounts”.

Subsec. (b)(2). Pub. L. 97-320, § 312, substituted “, including capital stock,” for “(except capital stock)”.

Subsec. (b)(5)(B). Pub. L. 97-320, § 202(b)(1), added subpar. (B). Provisions of former subpar. (B) were moved to subpar. (C) and amended.

Subsec. (b)(5)(C). Pub. L. 97-320, § 202(b)(2), added subpar. (C) which consisted of the provisions of former subpar. (B) but with the addition of a reference to net worth certificates issued pursuant to section 1729(f) of this title.

Subsec. (c)(1)(A). Pub. L. 97-320, §321, substituted “transaction accounts” for “negotiable order-of-withdrawal accounts”.

Subsec. (c)(1)(B). Pub. L. 97-320, §322, substituted “Loans on the security of liens upon residential or non-residential real property, except that the loans and investments of an association on nonresidential real property may not exceed 40 per centum of its assets” for “Loans on the security of liens upon residential real property in an amount which, when added to the amount unpaid upon prior mortgages, liens or encumbrances, if any, upon such real estate does not exceed the appraised value thereof, except that the amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by offsite improvements such as street, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. Notwithstanding the above loan-to-value ratios, the Board may permit a loan-to-value ratio in excess of 90 per centum if such real estate is improved by a building or buildings and that portion of the unpaid balance of such loan which is in excess of an amount equal to 90 per centum of such value is guaranteed or insured by a public or private mortgage insurer or in the case of any loan for the purpose of providing housing for persons of low income, as described in regulations of the Board.

Subsec. (c)(1)(G). Pub. L. 97-320, §323, inserted “, or in the savings accounts, certificates, or other accounts of any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation” after “Federal Deposit Insurance Corporation”.

Subsec. (c)(1)(H). Pub. L. 97-320, §324, substituted “Investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that an association may not invest more than 10 per centum of its capital and surplus in obligations of any one issuer, exclusive of investments in general obligations of any issuer” for “Investments in general obligations of any State or any political subdivision thereof”.

Subsec. (c)(1)(O). Pub. L. 97-320, §328, inserted reference to loans secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance.

Subsec. (c)(1)(R). Pub. L. 97-320, §325, added subpar. (R).

Subsec. (c)(2). Pub. L. 97-320, §330(1), substituted “the following percentages” for “20 per centum” in provisions preceding subpar. (A).

Subsec. (c)(2)(A). Pub. L. 97-320, §330(3), substituted “Investments in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association” for “Loans on security of first liens upon other improved real estate”.

Subsec. (c)(2)(B). Pub. L. 97-320, §329, inserted “, including loans reasonably incident to the provision of such credit,” after “household purposes” and “, except that loans of an association under this subparagraph may not exceed 30 per centum of the assets of the association” after “as defined and approved by the Board”.

Subsec. (c)(3)(A). Pub. L. 97-320, §330(4)(B), substituted “educational expenses” for “expenses of college, university, or vocational education”.

Subsec. (c)(3)(D). Pub. L. 97-320, §330(4)(A), struck out subpar. (D). See 1983 Amendment note reenacting subpar. (D).

Subsec. (c)(4)(C). Pub. L. 97-320, §330(5)(A), struck out cl. (i) which permitted loans secured by mortgages as to which the association had the benefit of insurance

under title X of the National Housing Act [12 U.S.C. 1749aa et seq.] or of a commitment or agreement for such insurance, struck out designations of former cls. (ii) and (iii), substituted “guarantee” for “guaranty” in first sentence, inserted “as hereafter amended or extended” after “section 221 or 222 of such Act [22 U.S.C. 2181 or 2182]”, and struck out “Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this subsection.”

Subsec. (c)(4)(D). Pub. L. 97-320, §330(5)(B), substituted provisions authorizing investments in small business investment companies for provisions that authorized investments in State and local government obligations.

Subsec. (c)(5), (6). Pub. L. 97-320, §330(2), redesignated par. (6) as (5).

Subsec. (d)(4)(C). Pub. L. 97-320, §427(a)(1), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (d)(4)(D). Pub. L. 97-320, §427(a)(1)-(3), redesignated former subpar. (C) as (D), and in subpar. (D) as so redesignated, substituted “(A), (B), or (C)” for “(A) or (B)” wherever appearing, and “subparagraph (F)” for “subparagraph (E)”. Former subpar. (D) redesignated (E).

Subsec. (d)(4)(E). Pub. L. 97-320, §427(a)(1), redesignated former subpar. (D) as (E). Former subpar. (E) redesignated (F).

Subsec. (d)(4)(F). Pub. L. 97-320, §427(a)(1), (2), (4), redesignated former subpar. (E) as (F), and in subpar. (F) as so redesignated, substituted “(A), (B), or (C)” for “(A) or (B)”, and “subparagraph (D)” for “subparagraph (C)”.

Subsec. (d)(5)(A). Pub. L. 97-320, §427(a)(5), substituted “(C), or (D)” for “or (C)”.

Subsec. (d)(6)(B). Pub. L. 97-320, §114(b)(1), inserted “or the Federal Deposit Insurance Corporation” after “Federal Savings and Loan Corporation”.

Subsec. (d)(6)(D). Pub. L. 97-320, §114(b)(2), inserted “, except as hereafter provided,” after “shall appoint”.

Pub. L. 97-320, §114(b)(3), inserted provision relating to appointment as receiver and powers of Federal Deposit Insurance Corporation in the case of a Federal savings bank chartered pursuant to subsec. (o) of this section.

Subsec. (d)(8)(A). Pub. L. 97-320, §351, inserted in last sentence “, which prevails,” after “party”.

Subsec. (d)(8)(B)(i). Pub. L. 97-320, §424(a), (d)(8), inserted proviso giving Board discretionary authority to compromise, etc., any civil money penalty imposed under this subsection, and substituted “may be assessed” for “shall be assessed”.

Subsec. (d)(8)(B)(iv). Pub. L. 97-320, §424(e), substituted “twenty days from the service” for “ten days from the date”.

Subsec. (d)(11). Pub. L. 97-320, §114(c), substituted “with associations or any” for “with other” after “merger of associations”.

Subsec. (d)(12)(A). Pub. L. 97-320, §427(a)(6), substituted “(4)(D), (4)(E)” for “(4)(C), (4)(D)”.

Subsec. (i). Pub. L. 97-320, §313, amended subsec. (i) generally, substituting expanded provisions relating to conversions by banks to Federal charters, for provisions relating to conversion of member of Federal Home Loan Bank into Federal Savings and Loan Association, conversion of State stock savings and loan type institution charters into Federal stock charters, and conversion of Federal Savings and Loan Associations into State-chartered institutions.

Subsec. (o). Pub. L. 97-320, §112, added subsec. (o).

Subsec. (o)(2)(F), (G). Pub. L. 97-320, §141(a)(2), which directed the repeal of subpars. (F) and (G) effective Oct. 13, 1986, was repealed by Pub. L. 100-86, §509(a). See Effective and Termination Dates of 1982 Amendment note and Extension of Emergency Acquisition and Net Worth Guarantee Provisions of Pub. L. 97-320 note set out below.

Subsec. (p). Pub. L. 97-320, §141(a)(5), which directed the repeal of subsec. (p) effective Oct. 13, 1986, was repealed by Pub. L. 100-86, §509(a). See Effective and Ter-

mination Dates of 1982 Amendment note and Extension of Emergency Acquisition and Net Worth Guarantee Provisions of Pub. L. 97-320 note set out below.

Pub. L. 97-320, § 121, added subsec. (p).

Subsecs. (q), (r). Pub. L. 97-320, §§ 331, 334, added subsecs. (q) and (r).

1980—Subsec. (a). Pub. L. 96-221, § 408, redesignated existing provisions as par. (1), denominated cls. (1) and (2) as (A) and (B), respectively, wherever appearing, and added pars. (2) and (3).

Subsec. (b)(1). Pub. L. 96-221, §§ 304, 307, inserted provision identical to provision added by Pub. L. 96-161 relating to establishment of remote service units, and repealed the amendment made by Pub. L. 96-161. See Repeals and Effective Date of 1980 Amendment notes below.

Subsec. (b)(4). Pub. L. 96-221, § 402, added par. (4).

Subsec. (b)(5). Pub. L. 96-221, § 407(a), added par. (5).

Subsec. (c). Pub. L. 96-221, § 401, generally revised investment authority of an association, with emphasis on provisions respecting loans or investments without percentage of assets limitations, loans or investments limited to 20 per centum of assets, and loans or investments limited to 5 per centum of assets.

Subsec. (i). Pub. L. 96-221, § 404, inserted provisions relating to conversion of State stock savings and loan type charter into Federal stock charter.

Subsec. (n). Pub. L. 96-221, § 403, added subsec. (n).

1979—Subsec. (b)(1). Pub. L. 96-161 provided that this section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board.

Subsec. (c)(1)(B). Pub. L. 96-153, § 326, substituted "\$75,000" for "\$60,000".

Subsec. (c)(4)(E). Pub. L. 96-153, § 325, added subpar. (E).

1978—Subsec. (a). Pub. L. 95-630, § 1202, inserted provisions relating to the authority of the Federal Home Loan Bank Board to allow a State-chartered mutual savings bank to convert to a Federal charter and be known as a Federal mutual savings bank.

Subsec. (b)(3). Pub. L. 95-630, § 1701(b), redesignated as subpar. (3), provisions which were formerly contained in undesignated par. 23 of subsec. (c).

Subsec. (c). Pub. L. 95-630, § 1701, simplified the investment authority for Federal savings and loan associations and provided such associations with more authority to invest in urban areas and transferred provisions of formerly undesignated paragraphs 15, 17, and 23 of this section to subsecs. (m), (l), and (b)(3) of this section, respectively.

Subsec. (d)(2). Pub. L. 95-630, § 107(a)(3), in subpar. (A) extended coverage of provisions to include directors, officers, employees, agents, or other persons participating in the conduct of the affairs of any association and added subpar. (C).

Subsec. (d)(3). Pub. L. 95-630, § 107(c)(3), in subpars. (A) and (B) inserted references to any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association and in subpar. (A) inserted "prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this subsection" after "savings account holders" and "and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings" after "violation or practice".

Subsec. (d)(4)(A). Pub. L. 95-630, § 107(d)(3), inserted "or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty" before "and that such violation", "or a willful or continuing disregard for the safety or soundness of the association" after "the part of such director or officer", and "or to prohibit his further participation in any manner in the conduct of the affairs of the association" after "remove him from office".

Subsec. (d)(4)(B). Pub. L. 95-630, § 107(d)(3), inserted references to a willful or continuing disregard for its safety and soundness in two places.

Subsec. (d)(5). Pub. L. 95-630, § 111(c)(1), among other changes, in subpar. (A) substituted "crime" for "felony" in two places and "subparagraph (A), (B), or (C)" for "subparagraph (A) or (B)", inserted "which is punishable by imprisonment for a term exceeding one year under State or Federal law" after "or breach of trust" and "if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association" after "the Board may" in two places, and inserted provision that any notice of suspension or order of removal issued under this subparagraph remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board, and added subpar. (C).

Subsec. (d)(7)(A). Pub. L. 95-630, § 111(c)(2), inserted "(other than the hearing provided for in paragraph (5)(C) of this subsection" after "provided for in this subsection (d)".

Subsec. (d)(8). Pub. L. 95-630, § 107(e)(3), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d)(12)(A). Pub. L. 95-630, § 111(c)(3), substituted "(5)(A), or (5)(C)" for "or (5)(A)".

Subsec. (d)(13)(A)(1). Pub. L. 95-630, § 111(c)(4), inserted "or (C)" after "paragraph (5)(A)".

Subsec. (d)(15). Pub. L. 95-630, § 208(b), added par. (15).

Subsec. (i). Pub. L. 95-630, § 1204, inserted "(including a savings bank)" after "member of a Federal Home Loan Bank" in first par.

Subsec. (l). Pub. L. 95-630, § 1701(b), redesignated as subsec. (l) the provisions which were formerly contained in undesignated par. 17 of subsec. (c).

Subsec. (m). Pub. L. 95-630, § 1701(b), redesignated as subsec. (m) provisions which were formerly contained in undesignated par. 15 of subsec. (c).

1977—Subsec. (c), first par. Pub. L. 95-128, §§ 402, 405, in first proviso, increased limitation on loans for single family dwellings to \$60,000 from \$55,000 and inserted "but of said 20 per centum the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under provisions of this sentence (other than this exception) or under the next following sentence shall be only the outstanding amount of such excess," after "improved real estate without regard to the foregoing limitations,"; and struck out "and the Board shall by regulation limit to not more than 20 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association under the foregoing provisions of this sentence on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property" before "except".

Subsec. (c), second and third pars. Pub. L. 95-128, § 404, increased limitation on loans to \$15,000 from \$10,000.

Subsec. (c), twenty-first par. Pub. L. 95-128, § 401, increased the rate to 5 from 3 per centum.

Subsec. (c), twenty-second par. Pub. L. 95-128, § 403, authorized use of real property or interests for farm purposes.

Subsec. (k). Pub. L. 95-147 inserted "shall be a depository of public money and" after "Federal Home Loan Bank" and "including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection" after "instrumentality of the United States".

1976—Subsec. (c). Pub. L. 94-375 inserted, in cl. (2) of twelfth par., "and in the share capital and capital reserve of the Inter-American Savings and Loan Bank" after "made pursuant to either of such sections".

1975—Subsec. (c). Pub. L. 94-60 in seventeenth par. struck out "or section 408(a)" after "under section 401(d)", and inserted "and to act as trustee or custodian

of an individual retirement account within the meaning of section 408 of such Code" after "Code of 1954", and "or account" after "funds of such trust".

1974—Subsec. (b)(2). Pub. L. 93-495 inserted "may be surety as defined by the Board" after "security,".

Subsec. (c). Pub. L. 93-383, §§ 703, 805(c)(4), in first par. increased limitation from \$45,000 for each single-family dwelling to \$55,000, except that with respect to Alaska, Guam, and Hawaii the limitation may be increased by not more than 50 per centum by regulation of the Board, and inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

Pub. L. 93-383, § 705, in second and third pars. substituted "\$10,000" for "\$5,000".

Pub. L. 93-383, § 802(i)(2), in twelfth par. inserted reference to section 802 of the Housing and Community Development Act of 1974.

Pub. L. 93-449 in seventeenth par. inserted reference to section 408(a) of title 26. As enacted section 4(d) of Pub. L. 93-449 amended nineteenth par.; however the amendment was executed to seventeenth par. editorially since this would appear to be the probable intent of Congress.

Pub. L. 93-383, § 702, added par. authorizing associations to invest an amount not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 3 per centum of its assets, in loans or in interests therein.

Pub. L. 93-383, § 704, added par. authorizing associations to invest in loans and advances of credit and interests therein upon the security of or respecting real property or interests therein.

Pub. L. 93-383, § 706, added par. authorizing association to borrow funds from a State mortgage finance agency of the State in which the head office of such association is situated.

1973—Subsec. (c). Pub. L. 93-100 added par. authorizing associations with general reserves, surplus, and undivided profits aggregating in excess of 5% of their withdrawable accounts to invest in, to lend to, or to commit themselves to lend to State housing corporations incorporated in the state in which the head office of the association is located with certain limitations.

1972—Subsec. (c). Pub. L. 92-318 authorized in second proviso investments in obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Subsec. (c), first par. Pub. L. 91-609, § 907(c), increased aggregate amount of authorized investments from 15 to 20 per centum of assets of the association.

Pub. L. 91-351, §§ 706, 709, in first par., inserted "or within the State in which such home office is located" after "their home office", and substituted "\$45,000" for "\$40,000" in first proviso, and "section" for "proviso" in second proviso.

Pub. L. 91-351, § 708, added par. authorizing any association to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan qualifying for specific tax treatment under section 401(d) of title 26.

Pub. L. 91-609, §§ 727(d), 907(b), in twelfth par., authorized associations to invest in loans or obligations guaranteed under part B of the Urban Growth and New Community Development Act of 1970, and extended authority to make certain investments to acquisition, holding, and disposition of loans, or interests therein, having benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty, respectively.

1969—Subsec. (c). Pub. L. 91-152 inserted provision authorizing any association to invest in stock issued by a corporation created pursuant to title IX of the Housing and Urban Development Act of 1968, and to invest in any partnership, etc., formed pursuant to section 907(a) or 907(c) of the Housing and Urban Development Act of 1968.

1968—Subsec. (b). Pub. L. 90-448, § 1716(a), struck out provisions which permitted associations to raise their capital only in the form of payments on shares and which prohibited acceptance of deposits or issuance of certificates of indebtedness except for borrowed money, and inserted provisions permitting an association to raise capital in the form of savings deposits, shares, or other accounts and to issue passbooks, time certificates of deposit, or other evidence of savings accounts, requiring holders of savings accounts and obligors to be members of the association, providing for notice for payment of any savings account, and for payment of withdrawals, prohibiting negotiable or transferable orders or authorization for checks or withdrawals or transfers, and empowering the associations to borrow, give security, and issue such notes, bonds, debentures, or other obligations or other securities (except capital stock) as the Board may authorize.

Subsec. (c). Pub. L. 90-505 allowed an association to invest in any investment which, at the time of the making of the investment, was an asset eligible for inclusion toward satisfaction of any liquidity requirement imposed on the association by section 1425a of this title but only to the extent that the investment was permitted to be so included under regulations issued by the Board or otherwise authorized.

Pub. L. 90-575 amended third par. (as designated prior to amendment by Pub. L. 90-448) to add vocational education expenses to the list of expenses for the payment of which associations are authorized to invest in loan, obligations and advances of credit.

Pub. L. 90-448, § 304(b), inserted paragraph permitting an association to invest in loans or obligations, or interests therein, as to which the association has the benefit of insurance under section 1715z-5 of this title, or of a commitment or agreement therefor.

Pub. L. 90-448, § 416(c), inserted sentence permitting an association to invest in loans or obligations, or interests therein, as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968, as now or hereafter in effect, or of a commitment or agreement therefor.

Pub. L. 90-448, § 804(e), inserted paragraph authorizing any such association to issue and sell securities which are guaranteed pursuant to section 1721(g) of this title.

Pub. L. 90-448, § 807(m), amended first par. to authorize investments in obligations, participations, or other instruments of or issued by, or guaranteed as to principal and interest by, the Government National Mortgage Association, and in stock of the Federal National Mortgage Association.

Pub. L. 90-448, § 1716(b), in first par., substituted "security of their savings accounts" for "security of their shares", and inserted provisions authorizing investment in time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

Pub. L. 90-448, § 1716(c), inserted provisions in second par. permitting loans for the construction of new structures related to residential use of the property.

Pub. L. 90-448, § 1716(d), inserted third par. authorizing loans, or investment in loans, not exceeding \$5,000 for repair, equipping, alteration, or improvement of real property, or for mobile home financing.

Pub. L. 90-448, § 1716(e), amended par. relating to loans secured by mortgages insured under Title X of the National Housing Act, to permit an association to acquire and hold investments in housing project loans, or interests therein, having the benefit of any guaranty under section 2181 of title 22, to include commitments or agreements with respect to loans, or interests therein, made pursuant to either section 2181 or 2184 of title 22, and to eliminate provisions which stated that investments in loans secured by mortgages insured under Title X of the National Housing Act shall not be included in any percentage of assets or other percentage referred to in this subsection, and that investments in loans guaranteed under section 2184 of title 22 shall not be more than 1 per centum of the assets of the association.

Pub. L. 90-448, § 1716(f), inserted par. permitting an association to invest in loans, or interests in loans, to financial institutions with respect to which the United States or any agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which it has any statutory authority to invest directly.

1966—Subsec. (d). Pub. L. 89-695 amended provisions generally, substituting pars. (1) to (14) for former pars. (1) (consisting of thirteen sentences) and (2) (consisting of eleven sentences), such pars. (2) to (5), (7) to (10), (12)(A)(B), (13), and (14) being new provisions.

1965—Subsec. (c). Pub. L. 89-117 added par. which permitted an association to invest in loans (1) secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (2) guaranteed by the President under section 2184 of title 22, and prohibited investments under cl. (2) to exceed 1 per centum of the assets of such association, provided that, for purposes of this subsection, "other dwelling units" would include living accommodations for students, employees, or staff members of a college, or university, or hospital, reduced from 15 to 10 years the time by which a lease period must extend beyond the maturity date of the debt in order that a leasehold interest qualify as "real property" or "real estate" within this section, and added par. which prohibited any District of Columbia building and loan associations from establishing a branch or moving its principal office without the prior written approval of the Federal Home Loan Bank Board and forbade any other building and loan associations from establishing a branch office in the District or moving its principal office in the District without such approval.

1964—Subsec. (c). Pub. L. 88-560, §§ 901(a), 902-905, 907, 908, 910, amended provisions as follows:

Section 901(a) substituted "one hundred miles" for "fifty miles" in first sentence.

Section 902 substituted "\$40,000" for "\$35,000" in first proviso of first par. and deleted from end of such first proviso ", except that the aggregate sums invested pursuant to the two exceptions in this proviso shall not exceed 30 per centum of the assets of such association".

Section 903 substituted provisions which authorized the association to invest not more than 5 per centum of its assets in, or in interests in, real property located within urban renewal areas and obligations secured by first liens on real property so located but limited the aggregate of such investments to 2 per centum of the assets of the association for former provisions which authorized the association to invest not more than 5 per centum of its assets in certificates of beneficial interest issued by any urban renewal investment trust, defined an "urban renewal investment trust", and provided for rules and regulations to be prescribed by the Federal Home Loan Bank Board for the establishment, operation, etc. of such urban renewal investment trusts.

Section 904 added par. which defined "real property" and "real estate".

Section 905 added par. which authorized an association to invest its assets in a corporation organized in the State where the association's home office is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations chartered in that State and Federal associations having their home offices therein but limited the aggregate of such investments to 1 per centum of its assets.

Section 907 inserted in second proviso of first par. ", or fully guaranteed as to principal and interest by," authorized an association to invest in participations or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or any other agency of the United States, and defined term "State".

Section 908 substituted in first sentence of second par. "20 per centum" and "\$5,000" for "15 per centum" and "\$3,500", respectively.

Section 910 inserted after second par. the paragraph which authorized the association to invest in loans, obligations, and advances of credit made for the payment of expenses of college or university education but limited such investments to 5 per centum of the assets of the association.

1962—Subsec. (c). Pub. L. 87-779, in first par., substituted provisions authorizing loans on the security of first liens upon real property within fifty miles of their home office which constitute first liens upon homes, combinations of homes and business property, other dwelling units, or combinations of dwelling units, including homes, and business property involving only minor or incidental business use, for provisions which permitted loans on the security of first liens upon homes or combination of homes and business property within fifty miles of their home office, and provisions limiting the amount of loan on the security of first liens to not more than \$35,000 for each single-family dwelling, and not more than such amount per room as the Board may determine within the limits allowable in section 1713(c)(3) of this title for any other dwelling unit, for provisions which limited the amount of the loan to not more than \$35,000 on the security of a first lien upon a home or combination of home and business property, inserted provisions requiring the Board to limit by regulation to not more than 15 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property, changed provisions which permitted use of additional sums not exceeding 20 per centum of the assets of the association without regard to area restriction for the making or purchase of participating interests in first liens on one- to four-family homes to permit use of such sums for the making or purchase of participating interests in real property of the type described in the opening provisions of this subsection, and substituted "dollar amount limitation" for "\$35,000 limitation" in fourth par.

Subsec. (h). Pub. L. 87-834 struck out provisions which exempted such associations, including their franchises, capital, reserves, and surplus, and their loans and income, and all shares of such associations both as to their value and the income therefrom, from all taxation imposed by the United States.

1961—Pub. L. 87-70 inserted provisions in second par. authorizing investments in home improvement loans insured under subchapter II of chapter 13 of this title, and added former fourth, fifth, sixth and seventh par. (now sixth, seventh, eighth, and ninth) authorizing investments in non-amortized loans which are made on the security of first liens upon homes or combinations of homes and business property, in amortized loans or participating interests therein which are secured by first liens upon improved real estate used to provide housing facilities for the aging, in certificates of beneficial interest issued by any urban renewal investment trust, and permitting associations to invest in, to lend to, or to commit themselves to lend to any business development credit corporation incorporated in the State in which the head office of the association is situated.

1960—Subsec. (d)(1). Pub. L. 86-507 inserted "or by certified mail," after "registered mail,".

1959—Subsec. (c). Pub. L. 86-372 permitted the use of additional sums not exceeding 20 per centum of the assets of an association without regard to the area restriction for the making or purchase of participating interests in first liens on one- to four-family homes, limited the aggregate sums invested pursuant to the two exceptions to not more than 30 per centum of the assets of the association, provided that participating interests in loans secured by mortgages which have the benefit of insurance or guaranty (or a commitment therefor) under the National Housing Act, the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, shall not be taken into account in determining the amount of loans which an association may make within

any of the percentage limitations contained in the first proviso, and authorized any association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts to invest an amount not exceeding at any one time 5 per centum of such withdrawable accounts in loans to finance the acquisition and development of land for primarily residential usage.

1958—Subsec. (c). Pub. L. 85-857 inserted “, or chapter 37 of Title 38” after “Servicemen’s Readjustment Act of 1944, as amended” in two places.

1956—Subsec. (c). Act Aug. 7, 1956, substituted “20 per centum” for “15 per centum” in first sentence, and “\$3,500” for “\$2,500” in proviso at end of second par.

1955—Subsec. (c). Act Aug. 11, 1955, removed the limitation of \$2,500 from insured or guaranteed loans.

1954—Subsec. (c). Act Aug. 2, 1954, §§ 204(b), 503(1), (3), amended provisions as follows: section 204(b) inserted the reference to obligations of the Federal National Mortgage Association in second proviso of first par.; section 503(1), (3), substituted “\$35,000” for “\$20,000” in two places in first par. and increased from \$1,500 to \$2,500 the maximum amount of an unsecured loan in which a Federal savings and loan association may invest in second par.

Subsec. (d). Act Aug. 2, 1954, § 503(2), amended provisions generally to provide a means by administrative and court proceedings whereby the Board may enforce compliance with law and regulations by Federal savings and loan associations in cases where the Board felt that the appointment of a conservator or receiver was not necessary or desirable; and to set out the grounds, and provide the procedure, for the appointment of conservators, receivers, and supervisory representatives.

1952—Subsec. (c). Act July 14, 1952, inserted penultimate sentence to first par.

1951—Subsec. (h). Act Oct. 20, 1951, inserted “date, and except, in the case of taxable years beginning after December 31, 1951, income, war-profits, and excess-profits taxes”.

1948—Subsec. (i). Act July 3, 1948, permitted any Federal savings and loan association to convert into a savings and loan type of organization or a mutual savings bank pursuant to the law of the State in which the principal office of the association is located.

1947—Subsec. (c). Act Aug. 6, 1947, liberalized provisions with respect to loans made by Federal savings and loan associations.

1939—Subsec. (h). Act Aug. 10, 1939, inserted exception contained within first parenthetical.

1935—Subsec. (c). Act May 28, 1935, inserted last proviso.

1934—Subsecs. (i) to (k). Act Apr. 27, 1934, amended subsec. (i) and added subsecs. (j) and (k).

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 369(5) of Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

Amendment by section 610(b) of Pub. L. 111-203 effective 1 year after the transfer date, see section 610(c) of Pub. L. 111-203, set out as a note under section 84 of this title.

Amendment by section 612(c) Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

Amendment by section 627(a)(2) of Pub. L. 111-203 effective 1 year after July 21, 2010, see section 627(b) of Pub. L. 111-203, set out as an Effective Date of Repeal note under section 371a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109-171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109-171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(12)(A) of Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1603(d)(8) of Pub. L. 102-550 provided that the amendment made by that section is effective on the effective date of the amendment made by section 133(d)(1) of Pub. L. 102-242. See Effective Date of 1991 Amendment note below.

Amendment by section 1606(f) of Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, except that where amendment is to any provision of law added or amended by Pub. L. 102-242 effective after Dec. 19, 1992, then amendment by Pub. L. 102-550 effective on effective date of amendment by Pub. L. 102-242, see section 1609 of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 131(f) of Pub. L. 102-242 provided that: “The amendments made by this section [enacting section 1831o of this title and amending this section and sections 1813 and 1818 of this title] shall become effective 1 year after the date of enactment of this Act [Dec. 19, 1991].”

Amendment by section 133(d) of Pub. L. 102-242 effective 1 year after Dec. 19, 1991, see section 133(g) of Pub. L. 102-242, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 14(a)(2) of Pub. L. 97-457 provided that: “The amendment made by paragraph (1) [amending this section] shall be deemed to have taken effect upon the enactment of Public Law 97-320 [Oct. 15, 1982].”

EFFECTIVE AND TERMINATION DATES OF 1982 AMENDMENT

Prior to its repeal by section 509(a) of Pub. L. 100-86, section 141 of Pub. L. 97-320, as amended by Pub. L. 99-120, § 6(a), Oct. 8, 1985, 99 Stat. 504; Pub. L. 99-278, § 1(a), Apr. 24, 1986, 100 Stat. 397; Pub. L. 99-400, § 1(a), Aug. 27, 1986, 100 Stat. 902; Pub. L. 99-452, § 1(a), Oct. 8, 1986, 100 Stat. 1140, provided that:

“(a) Effective on October 13, 1986—

“(1) section 13(c)(5) of the Federal Deposit Insurance Act [section 1823(c)(5) of this title], as added by section 111 of this Act, shall be repealed;

“(2) subparagraphs (F) and (G) of section 5(o)(2) of the Home Owners’ Loan Act of 1933 [section 1464(o)(2) of this title], as added by section 112 of this Act, shall be repealed;

“(3) the provision of law amended by section 116 of this Act [section 1823(f) of this title] shall be amended to read as it would without such amendment;

“(4) the provisions of law amended by subsections (a) [section 1843(c)(8) of this title] and (c) [section 1842(d) of this title] of section 118 shall be amended to read as they would without such amendments;

“(5) the provision of law amended by section 121 of this Act [section 1464(p) of this title] shall be amended to read as it would without such amendment;

“(6) the provisions of law amended by subsections (d) through (g) of section 122 of this Act [section 1729(c), (d) of this title] shall be amended to read as they would without such amendments;

“(7) the provisions of law amended by section 123 of this Act [section 1730a(e)(2), (m) of this title] shall be amended to read as they would without such amendments; and

“(8) the provisions of law amended by sections 131 [section 1785(h), (i) of this title] and 132 [section 1786(b)(2), (h)–(p) of this title] shall be amended to read as they would without such amendments.

“(b) The repeal or termination by subsection (a) of any amendment made by this Act shall have no effect on any action taken or authorized while such amendment was in effect.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 304 of Pub. L. 96-221 effective at close of Mar. 31, 1980, see section 306 of Pub. L. 96-221, set out as a note under section 371a of this title.

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Amendment by Pub. L. 96-161 effective Dec. 31, 1979, with that amendment to remain in effect until close of Mar. 31, 1980, see section 104 of Pub. L. 96-161, formerly set out as a note under section 371a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 107(e)(3) of Pub. L. 95-630, relating to imposition of civil penalties, applicable to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95-630, set out as a note under section 93 of this title.

Amendment by section 1701 of Pub. L. 95-630 effective Nov. 10, 1978, see section 1703 of Pub. L. 95-630, set out as a note under section 1451 of this title.

Amendment by Pub. L. 95-630 effective, except as otherwise provided, on expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95-630 set out as an Effective Date note under section 375b of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-495 effective on thirtieth day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-100 effective Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as an Effective Date note under section 1469 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 101(b) of Pub. L. 89-695 provided that: “The amendment made by subsection (a) of this section [amending this section] shall be effective only with respect to proceedings commenced on or after the date of

enactment of this Act [Oct. 16, 1966]. Section 5(d) of the Home Owners’ Loan Act of 1933 [this section] as in effect immediately prior to the date of enactment of this Act shall continue in effect with respect to any proceedings commenced prior to such date.”

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91-609, title IX, §908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89-695 which had provided that: “The provisions of titles I and II of this Act [amending this section and sections 1730, 1813, 1817 to 1820 of this title, repealing section 77 of this title, and enacting provisions set out as notes under this section and sections 1730 and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted.”

EFFECTIVE DATE OF 1962 AMENDMENT

Section 6(g)(4) of Pub. L. 87-834, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“Subsection (e) of this section [amending this section and section 4382 of Title 26, Internal Revenue Code] shall become effective on January 1, 1963, except that—

“(A) in the case of the tax imposed by section 4251 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4251 of title 26], such subsection shall apply only with respect to amounts paid pursuant to bills rendered after December 31, 1962; and

“(B) in the case of the tax imposed by section 4261 of such Code [section 4261 of title 26], such subsection shall apply only with respect to transportation beginning after December 31, 1962.”

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding Part 1 of Title 38, Veterans’ Benefits.

EFFECTIVE DATE OF 1951 AMENDMENT

Amendment by act Oct. 20, 1951, applicable only with respect to taxable years beginning after Dec. 31, 1951, see section 313(j) of act Oct. 20, 1951.

Section 615 of act Oct. 20, 1951, provided that: “No amendment made by this Act [see Tables for classification] shall apply in any case where its application would be contrary to any treaty obligation of the United States.”

SHORT TITLE OF 1974 AMENDMENT

Section 701 of title VII of Pub. L. 93-383 provided that: “This title [amending this section and sections 371, 1757, 1759, 1761b, 1761d, 1763, 1772, 1782, 1786, and 1788 of this title] may be cited as the ‘Consumer Home Mortgage Assistance Act of 1974.’”

SHORT TITLE OF 1966 AMENDMENT

Section 1 of Pub. L. 89-695 provided: “That this Act [amending this section and sections 1724, 1728, 1730, 1730a, 1813, and 1817 to 1821 of this title, repealing section 77 of this title, and enacting provisions set out as notes under this section and sections 1724, 1730, and 1813 of this title] may be cited as the ‘Financial Institutions Supervisory Act of 1966.’”

EFFECTIVE DATE OF REGULATIONS PRESCRIBED UNDER 1986 AMENDMENT

Section 1364(e) of Pub. L. 99-570 provided that: “The regulations required to be prescribed under the amendments made by section 1359 [amending this section and sections 1730, 1786, and 1818 of this title] shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act [Oct. 27, 1986].”

TRANSITIONAL RULES REGARDING CERTAIN LOANS

Pub. L. 101-73, title III, §305(a), (b), Aug. 9, 1989, 103 Stat. 351, as amended by Pub. L. 111-203, title III, §367(3), July 21, 2010, 124 Stat. 1556, provided that:

“(a) **DIVESTITURE OF CERTAIN LOANS AND INVESTMENTS NOT REQUIRED.**—The limitations on loans and investments contained in section 5(c) of the Home Owners’ Loan Act [12 U.S.C. 1464(c)], as amended by section 301, do not require the divestiture of any loan or investment that was lawful when made under the provisions of such section as those provisions were in effect at the time such loan or investment was made.

“(b) **LOANS SECURED BY NONRESIDENTIAL REAL PROPERTY.**—

“(1) **IN GENERAL.**—The Director of the Office of Thrift Supervision may, by order, permit a Federal savings association to exceed the limitation set forth in section 5(c)(2)(B)(i) of the Home Owners’ Loan Act [12 U.S.C. 1464(c)(2)(B)(i)] during the period beginning on the date of enactment of this Act [Aug. 9, 1989] and ending on June 1, 1991, if the Director determines that—

“(A) there is a reasonable prospect that the savings association can be in compliance, not later than June 1, 1991, with the capital standards prescribed under section 5(t) of the Home Owners’ Loan Act; and

“(B) the increased authority—

“(i) is consistent with prudent operating practices, and

“(ii) is in accordance with a plan submitted by the savings association for—

“(I) an orderly transition to compliance with section 5(c)(2)(B)(i), or

“(II) an orderly conversion to a bank charter.

“(2) **OTHER EXEMPTIVE AUTHORITY NOT AFFECTED.**—

The authority granted by paragraph (1) is in addition to any authority of the Director under section 5(c)(2)(B)(ii) of the Home Owners’ Loan Act.”

[Pub. L. 111-203, title III, §§351, 367(3), July 21, 2010, 124 Stat. 1546, 1556, provided that, effective on the transfer date (defined in section 5301 of this title), section 305(a), (b) of Pub. L. 101-73, set out above, is amended by striking out subsection (b).]

EXTENSION OF EMERGENCY ACQUISITION AND NET WORTH GUARANTEE PROVISIONS OF PUB. L. 97-320

Section 509(c) of Pub. L. 100-86 provided that: “No amendment made by part D [section 141, formerly set out as an Effective and Termination Dates of 1982 Amendment note above] of title I or section 206 [set out as an Effective and Termination Dates of 1982 Amendment note under section 1729 of this title] of the Garn-St Germain Depository Institutions Act of 1982 [Pub. L. 97-320], as in effect before the date of the enactment of this Act [Aug. 10, 1987], to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act and any such provision of law shall be in effect as if no such amendment had been made before such date of enactment.”

Pub. L. 99-452, §1(c), Oct. 8, 1986, 100 Stat. 1140, provided that: “No amendment made by section 141(a) or section 206(a) of the Garn-St Germain Depository Institutions Act of 1982 [set out as Effective and Termination Dates of 1982 Amendment notes under sections 1464 and 1729 of this title], as in effect on the day before the date of the enactment of this Act [Oct. 8, 1986], to any other provision of law shall be deemed to have taken effect before such date of enactment and any such provision of law shall be in effect as if no such amendment had taken effect before such date of enactment.”

Pub. L. 99-400, §1(c), Aug. 27, 1986, 100 Stat. 902, provided that: “Sections 141(a) and 206(a) of the Garn-St Germain Depository Institutions Act of 1982 [set out as Effective and Termination Dates of 1982 Amendment notes under sections 1464 and 1729 of this title], as such sections are in effect on the day after the date of enactment of this Act [Aug. 27, 1986], shall apply as if such

sections had been included in the Garn-St Germain Depository Institutions Act of 1982 on the date of the enactment of such Act [Oct. 15, 1982], no amendment made by any such section to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act, and any such provision of law shall be in effect as if no such amendment had taken effect before the date of the enactment of this Act.”

REPEALS

Amendment of this section by section 102 of Pub. L. 96-161, cited as a credit to this section, was repealed at the close of Mar. 31, 1980, by section 307 of Pub. L. 96-221, and substantially identical provisions were enacted by section 304 of Pub. L. 96-221, such amendments to take effect at the close of Mar. 31, 1980.

§ 1465. State law preemption standards for Federal savings associations clarified

(a) In general

Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this chapter or any regulation or order prescribed under this chapter shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

(b) Principles of conflict preemption applicable

Notwithstanding the authorities granted under sections 1463 and 1464 of this title, this chapter does not occupy the field in any area of State law.

(c) Visitorial powers

The provisions of sections¹ 25b(i) of this title shall apply to Federal savings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.

(d) Enforcement actions

The ability of the Comptroller of the Currency to bring an enforcement action under this chapter or section 45 of title 15 does not preclude any private party from enforcing rights granted under Federal or State law in the courts.

(June 13, 1933, ch. 64, §6, as added and amended Pub. L. 111-203, title X, §§1046(a), 1047(b), July 21, 2010, 124 Stat. 2017, 2018.)

PRIOR PROVISIONS

A prior section 1465, acts June 13, 1933, ch. 64, §6, 48 Stat. 134; Apr. 27, 1934, ch. 168, §11, 48 Stat. 647; May 28, 1935, ch. 150, §19, 49 Stat. 297; Pub. L. 101-73, title III, §301, Aug. 9, 1989, 103 Stat. 313, which related to liquid asset requirements, was repealed by Pub. L. 106-569, title XII, §1201(a), Dec. 27, 2000, 114 Stat. 3032.

AMENDMENTS

2010—Subsecs. (c), (d). Pub. L. 111-203, §1047(b), added subsecs. (c) and (d).

EFFECTIVE DATE

Enactment and amendment of section by Pub. L. 111-203 effective on the designated transfer date, see section 1048 of Pub. L. 111-203, set out as a note under section 5551 of this title.

¹ So in original. Probably should be “section”.