

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-325 substituted “the insured depository institution, insured branch, or bank” for “the bank” in two places.

1989—Pub. L. 101-73 substituted references to insured depository institutions for references to insured banks wherever appearing in this section.

1978—Subsec. (a). Pub. L. 95-369 inserted “insured branch of a foreign bank” after “No insured bank”.

EFFECTIVE DATE

Section effective 180 days after Dec. 22, 1974, see section 20 of Pub. L. 93-533, set out as a note under section 2601 of this title.

EXEMPTIONS; REGULATIONS

Pub. L. 93-533, §11(c), Dec. 22, 1974, 88 Stat. 1729, provided that: “The Federal Deposit Insurance Corporation or the Federal Home Loan Bank Board as appropriate may by regulation exempt classes or types of transactions from the provisions added by this section [enacting this section and section 1730f of this title] if the Corporation or the Board determines that the purposes of such provisions would not be advanced materially by their application to such transactions.”

§ 1831c. Assuring consistent oversight of subsidiaries of holding companies

(a) Definitions

For purposes of this section:

(1) Board

The term “Board” means the Board of Governors of the Federal Reserve System.

(2) Functionally regulated subsidiary

The term “functionally regulated subsidiary” has the same meaning as in section 1844(c)(5)¹ of this title.

(3) Lead insured depository institution

The term “lead insured depository institution” has the same meaning as in section 1841(o)(8)¹ of this title.

(b) Examination requirements

Subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.], the Board shall examine the activities of a nondepository institution subsidiary (other than a functionally regulated subsidiary or a subsidiary of a depository institution) of a depository institution holding company that are permissible for the insured depository institution subsidiaries of the depository institution holding company in the same manner, subject to the same standards, and with the same frequency as would be required if such activities were conducted in the lead insured depository institution of the depository institution holding company.

(c) State coordination

(1) Consultation and coordination

If a nondepository institution subsidiary is supervised by a State bank supervisor or other State regulatory authority, the Board, in conducting the examinations required in subsection (b), shall consult and coordinate with such State regulator.

(2) Alternating examinations permitted

The examinations required under subsection (b) may be conducted in joint or alternating

manner with a State regulator, if the Board determines that an examination of a nondepository institution subsidiary conducted by the State carries out the purposes of this section.

(d) Appropriate Federal banking agency backup examination authority

(1) In general

In the event that the Board does not conduct examinations required under subsection (b) in the same manner, subject to the same standards, and with the same frequency as would be required if such activities were conducted by the lead insured depository institution subsidiary of the depository institution holding company, the appropriate Federal banking agency for the lead insured depository institution may recommend in writing (which shall include a written explanation of the concerns giving rise to the recommendation) that the Board perform the examination required under subsection (b).

(2) Examination by an appropriate Federal banking agency

If the Board does not, before the end of the 60-day period beginning on the date on which the Board receives a recommendation under paragraph (1), begin an examination as required under subsection (b) or provide a written explanation or plan to the appropriate Federal banking agency making such recommendation responding to the concerns raised by the appropriate Federal banking agency for the lead insured depository institution, the appropriate Federal banking agency for the lead insured depository institution may, subject to the Consumer Financial Protection Act of 2010, examine the activities that are permissible for a depository institution subsidiary conducted by such nondepository institution subsidiary (other than a functionally regulated subsidiary or a subsidiary of a depository institution) of the depository institution holding company as if the nondepository institution subsidiary were an insured depository institution for which the appropriate Federal banking agency of the lead insured depository institution was the appropriate Federal banking agency, to determine whether the activities—

(A) pose a material threat to the safety and soundness of any insured depository institution subsidiary of the depository institution holding company;

(B) are conducted in accordance with applicable Federal law; and

(C) are subject to appropriate systems for monitoring and controlling the financial, operating, and other material risks of the activities that may pose a material threat to the safety and soundness of the insured depository institution subsidiaries of the holding company.

(3) Agency coordination with the Board

An appropriate Federal banking agency that conducts an examination pursuant to paragraph (2) shall coordinate examination of the activities of nondepository institution subsidiaries described in subsection (b) with the Board in a manner that—

¹ See References in Text note below.

- (A) avoids duplication;
- (B) shares information relevant to the supervision of the depository institution holding company;
- (C) achieves the objectives of subsection (b); and
- (D) ensures that the depository institution holding company and the subsidiaries of the depository institution holding company are not subject to conflicting supervisory demands by such agency and the Board.

(4) Fee permitted for examination costs

An appropriate Federal banking agency that conducts an examination or enforcement action pursuant to this section may collect an assessment, fee, or such other charge from the subsidiary as the appropriate Federal banking agency determines necessary or appropriate to carry out the responsibilities of the appropriate Federal banking agency in connection with such examination.

(e) Referrals for enforcement by appropriate Federal banking agency

(1) Recommendation of enforcement action

The appropriate Federal banking agency for the lead insured depository institution, based upon its examination of a nondepository institution subsidiary conducted pursuant to subsection (d), or other relevant information, may submit to the Board, in writing, a recommendation that the Board take enforcement action against such nondepository institution subsidiary, together with an explanation of the concerns giving rise to the recommendation, if the appropriate Federal banking agency determines (by a vote of its members, if applicable) that the activities of the nondepository institution subsidiary pose a material threat to the safety and soundness of any insured depository institution subsidiary of the depository institution holding company.

(2) Back-up authority of the appropriate Federal banking agency

If, within the 60-day period beginning on the date on which the Board receives a recommendation under paragraph (1), the Board does not take enforcement action against the nondepository institution subsidiary or provide a plan for supervisory or enforcement action that is acceptable to the appropriate Federal banking agency that made the recommendation pursuant to paragraph (1), such agency may take the recommended enforcement action against the nondepository institution subsidiary, in the same manner as if the nondepository institution subsidiary were an insured depository institution for which the agency was the appropriate Federal banking agency.

(f) Coordination among appropriate Federal banking agencies

Each Federal banking agency, prior to or when exercising authority under subsection (d) or (e) shall—

- (1) provide reasonable notice to, and consult with, the appropriate Federal banking agency or State bank supervisor (or other State regulatory agency) of the nondepository institu-

tion subsidiary of a depository institution holding company that is described in subsection (d) before commencing any examination of the subsidiary;

- (2) to the fullest extent possible—

- (A) rely on the examinations, inspections, and reports of the appropriate Federal banking agency or the State bank supervisor (or other State regulatory agency) of the subsidiary;

- (B) avoid duplication of examination activities, reporting requirements, and requests for information; and

- (C) ensure that the depository institution holding company and the subsidiaries of the depository institution holding company are not subject to conflicting supervisory demands by the appropriate Federal banking agencies.

(g) Rule of construction

No provision of this section shall be construed as limiting any authority of the Board, the Corporation, or the Comptroller of the Currency under any other provision of law.

(Sept. 21, 1950, ch. 967, §2[26], as added Pub. L. 111-203, title VI, §605(a), July 21, 2010, 124 Stat. 1604.)

REFERENCES IN TEXT

Section 1844(c)(5) of this title, referred to in subsec. (a)(2), was in the original “section 5(c)(5) of the Bank Holding Company Act” and was translated as reading “section 5(c)(5) of the Bank Holding Company Act of 1956” to reflect the probable intent of Congress.

Section 1841(o)(8) of this title, referred to in subsec. (a)(3), was in the original “section 2(o)(8) of the Bank Holding Company Act” and was translated as reading “section 2(o)(8) of the Bank Holding Company Act of 1956” to reflect the probable intent of Congress.

The Consumer Financial Protection Act of 2010, referred to in subsecs. (b) and (d)(2), is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955, which enacted subchapter V (§5481 et seq.) of chapter 53 of this title and enacted, amended, and repealed numerous other sections and notes in the Code. Subtitle B of the Act is classified generally to part B (§5511 et seq.) of subchapter V of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1831c, act Sept. 21, 1950, ch. 967, §2[26], as added Nov. 10, 1978, Pub. L. 95-630, title XII, §1205, 92 Stat. 3711; amended Oct. 15, 1982, Pub. L. 97-320, title I, §113(p), 96 Stat. 1474; Jan. 12, 1983, Pub. L. 97-457, §3, 96 Stat. 2507, which related to conversion, merger, or consolidation of mutual savings banks into Federal savings banks or savings banks which are insured institutions within meaning of former section 1724 of this title, was repealed by Pub. L. 103-325, title VI, §602(f)(1), Sept. 23, 1994, 108 Stat. 2292.

EFFECTIVE DATE

Pub. L. 111-203, title VI, §605(b), July 21, 2010, 124 Stat. 1607, provided that: “The amendment made by subsection (a) [enacting this section] shall take effect on the transfer date.”

[For definition of “transfer date” as used in section 605(b) of Pub. L. 111-203, set out above, see section 5301 of this title.]

§ 1831d. State-chartered insured depository institutions and insured branches of foreign banks

(a) Interest rates

In order to prevent discrimination against State-chartered insured depository institutions, including insured savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such State bank or such insured branch of a foreign bank is located or at the rate allowed by the laws of the State, territory, or district where the bank is located, whichever may be greater.

(b) Interest overcharge; forfeiture; interest payment recovery

If the rate prescribed in subsection (a) exceeds the rate such State bank or such insured branch of a foreign bank would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from such State bank or such insured branch of a foreign bank taking, receiving, reserving, or charging such interest.

(Sept. 21, 1950, ch. 967, §2[27], as added Pub. L. 96-221, title V, §521, Mar. 31, 1980, 94 Stat. 164; amended Pub. L. 100-86, title I, §101(g)(2), Aug. 10, 1987, 101 Stat. 563; Pub. L. 101-73, title II, §201(a), Aug. 9, 1989, 103 Stat. 187.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1831a of this title prior to its repeal by Pub. L. 96-221.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-73 substituted “insured depository institutions” for “insured banks”.

1987—Subsec. (a). Pub. L. 100-86 struck out “and insured mutual savings banks” after “insured savings banks”.

EFFECTIVE DATE

Section applicable only with respect to loans made in any State during the period beginning on April 1, 1980,

and ending on the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want this section to apply with respect to loans made in such State, except that this section shall apply to a loan made on or after the date such law is adopted or such certification is made if such loan is made pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made, see section 525 of Pub. L. 96-221, set out as an Effective Date of 1980 Amendment note under section 1785 of this title.

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

In any case in which one or more provisions of, or amendments made by, title V of Pub. L. 96-221, section 1735f-7 of this title, or any other provisions of law, including section 85 of this title, apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate, see section 528 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

DEFINITION OF “STATE”

For purposes of this section, the term “State” to include the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands, see section 527 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

§ 1831e. Activities of savings associations

(a) In general

On and after January 1, 1990, a savings association chartered under State law may not engage as principal in any type of activity, or in any activity in an amount, that is not permissible for a Federal savings association unless—

(1) the Corporation has determined that the activity would pose no significant risk to the Deposit Insurance Fund; and

(2) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under section 1464(t) of this title.

(b) Differences of magnitude between State and Federal powers

Notwithstanding subsection (a)(1), if an activity (other than an activity described in section 1464(c)(2)(B) of this title) is permissible for a Federal savings association, a savings association chartered under State law may engage as principal in that activity in an amount greater than the amount permissible for a Federal savings association if—

(1) the Corporation has not determined that engaging in that amount of the activity poses any significant risk to the Deposit Insurance Fund; and

(2) the savings association chartered under State law is and continues to be in compliance with the fully phased-in capital standards prescribed under section 1464(t) of this title.

(c) Equity investments by State savings associations

(1) In general

Notwithstanding subsections (a) and (b), a savings association chartered under State law