

under any risk-based capital requirement if such exposure is an HVCRE ADC loan.

(b) HVCRE ADC loan defined

For purposes of this section and with respect to a depository institution, the term “HVCRE ADC loan”—

(1) means a credit facility secured by land or improved real property that, prior to being reclassified by the depository institution as a non-HVCRE ADC loan pursuant to subsection (d)—

(A) primarily finances, has financed, or refinances the acquisition, development, or construction of real property;

(B) has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and

(C) is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facility;

(2) does not include a credit facility financing—

(A) the acquisition, development, or construction of properties that are—

(i) one- to four-family residential properties;

(ii) real property that would qualify as an investment in community development; or

(iii) agricultural land;

(B) the acquisition or refinance of existing income-producing real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the institution’s applicable loan underwriting criteria for permanent financings;

(C) improvements to existing income-producing improved real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the institution’s applicable loan underwriting criteria for permanent financings; or

(D) commercial real property projects in which—

(i) the loan-to-value ratio is less than or equal to the applicable maximum supervisory loan-to-value ratio as determined by the appropriate Federal banking agency;

(ii) the borrower has contributed capital of at least 15 percent of the real property’s appraised, “as completed” value to the project in the form of—

(I) cash;

(II) unencumbered readily marketable assets;

(III) paid development expenses out-of-pocket; or

(IV) contributed real property or improvements; and

(iii) the borrower contributed the minimum amount of capital described under clause (ii) before the depository institu-

tion advances funds (other than the advance of a nominal sum made in order to secure the depository institution’s lien against the real property) under the credit facility, and such minimum amount of capital contributed by the borrower is contractually required to remain in the project until the credit facility has been reclassified by the depository institution as a non-HVCRE ADC loan under subsection (d);

(3) does not include any loan made prior to January 1, 2015; and

(4) does not include a credit facility reclassified as a non-HVCRE ADC loan under subsection (d).

(c) Value of contributed real property

For purposes of this section, the value of any real property contributed by a borrower as a capital contribution shall be the appraised value of the property as determined under standards prescribed pursuant to section 3339 of this title, in connection with the extension of the credit facility or loan to such borrower.

(d) Reclassification as a Non-HVCRE ADC loan

For purposes of this section and with respect to a credit facility and a depository institution, upon—

(1) the substantial completion of the development or construction of the real property being financed by the credit facility; and

(2) cash flow being generated by the real property being sufficient to support the debt service and expenses of the real property,

in accordance with the institution’s applicable loan underwriting criteria for permanent financings, the credit facility may be reclassified by the depository institution as a Non-HVCRE ADC loan.

(e) Existing authorities

Nothing in this section shall limit the supervisory, regulatory, or enforcement authority of an appropriate Federal banking agency to further the safe and sound operation of an institution under the supervision of the appropriate Federal banking agency.

(Sept. 21, 1950, ch. 967, §2[51], as added Pub. L. 115-174, title II, §214, May 24, 2018, 132 Stat. 1321.)

§ 1832. Withdrawals by negotiable or transferable instruments for transfers to third parties

(a) Authority of depository institution; applicability

(1) Notwithstanding any other provision of law but subject to paragraph (2), a depository institution is authorized to permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(2) Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, political, or other similar purposes and which is not oper-

ated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.

(b) "Depository institution" defined

For purposes of this section, the term "depository institution" means—

- (1) any insured bank as defined in section 1813 of this title;
- (2) any State bank as defined in section 1813 of this title;
- (3) any mutual savings bank as defined in section 1813 of this title;
- (4) any savings bank as defined in section 1813 of this title;
- (5) any insured institution as defined in section 1724¹ of this title; and
- (6) any building and loan association or savings and loan association organized and operated according to the laws of the State in which it is chartered or organized; and, for purposes of this paragraph, the term "State" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(c) Fine

Any depository institution which violates this section shall be fined \$1,000 for each violation.

(Pub. L. 93-100, § 2, Aug. 16, 1973, 87 Stat. 342; Pub. L. 94-222, § 2, Feb. 27, 1976, 90 Stat. 197; Pub. L. 95-630, title XIII, § 1301, Nov. 10, 1978, 92 Stat. 3712; Pub. L. 96-161, title I, § 106, Dec. 28, 1979, 93 Stat. 1235; Pub. L. 96-221, title III, § 303, Mar. 31, 1980, 94 Stat. 146; Pub. L. 97-320, title VII, § 706(a), Oct. 15, 1982, 96 Stat. 1540; Pub. L. 100-86, title I, § 109, Aug. 10, 1987, 101 Stat. 579.)

REFERENCES IN TEXT

Section 1724 of this title, referred to in subsec. (b)(5), was repealed by Pub. L. 101-73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

CODIFICATION

Section was not enacted as part of the Federal Deposit Insurance Act which comprises this chapter.

AMENDMENTS

1987—Subsec. (a)(2). Pub. L. 100-86 inserted "political," after "educational."

1982—Subsec. (a)(2). Pub. L. 97-320 inserted provisions relating to deposits of public funds.

1980—Subsec. (a). Pub. L. 96-221 designated existing provisions as par. (1) inserted provisions expanding authorization for withdrawals from selected States to the entire United States, and added par. (2).

1979—Subsec. (a). Pub. L. 96-161 inserted "New Jersey," after "New York."

1978—Subsec. (a). Pub. L. 95-630 inserted "New York," after "Vermont,".

1976—Subsec. (a). Pub. L. 94-222 authorized withdrawals by negotiable or transferable instruments in the States of Connecticut, Rhode Island, Maine, and Vermont.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective Dec. 31, 1980, see section 306 of Pub. L. 96-221, set out as a note under section 1464 of this title.

¹ See References in Text note below.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-630, title XIII, § 1302, Nov. 10, 1978, 92 Stat. 3712, provided that: "This title [amending this section] shall take effect upon enactment [Nov. 10, 1978]."

EFFECTIVE DATE

Section effective on thirtieth day after Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as a note under section 1469 of this title.

§ 1833. Repealed. Pub. L. 104-208, div. A, title II, § 2224(b), Sept. 30, 1996, 110 Stat. 3009-415

Section, Pub. L. 101-73, title IX, § 918, Aug. 9, 1989, 103 Stat. 487, required certain agencies to annually report to Congress detailing civil and criminal actions and investigations undertaken during preceding 12-month period.

§ 1833a. Civil penalties

(a) In general

Whoever violates any provision of law to which this section is made applicable by subsection (c) shall be subject to a civil penalty in an amount assessed by the court in a civil action under this section.

(b) Maximum amount of penalty

(1) Generally

The amount of the civil penalty shall not exceed \$1,000,000.

(2) Special rule for continuing violations

In the case of a continuing violation, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the lesser of \$1,000,000 per day or \$5,000,000.

(3) Special rule for violations creating gain or loss

(A) If any person derives pecuniary gain from the violation, or if the violation results in pecuniary loss to a person other than the violator, the amount of the civil penalty may exceed the amounts described in paragraphs (1) and (2) but may not exceed the amount of such gain or loss.

(B) As used in this paragraph, the term "person" includes the Bank Insurance Fund, the Savings Association Insurance Fund, and after the merger of such funds, the Deposit Insurance Fund, and the National Credit Union Share Insurance Fund.

(c) Violations to which penalty is applicable

This section applies to a violation of, or a conspiracy to violate—

(1) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18;

(2) section 287, 1001, 1032,¹ 1341 or 1343 of title 18 affecting a federally insured financial institution; or

(3) section 645(a) of title 15.

(d) Effective date

This section shall apply to violations occurring on or after August 10, 1984.

(e) Attorney General to bring action

A civil action to recover a civil penalty under this section shall be commenced by the Attorney General.

¹ See 1990 Amendment note below.