

thiness established by the Corporation" for "not of investment grade".

Pub. L. 111-203, §363(9)(A)(ii)(I), substituted "Comptroller of the Currency or the Corporation, as appropriate" for "Director of the Office of Thrift Supervision".

Subsec. (e)(3)(B). Pub. L. 111-203, §939(a)(3)(C), substituted "that does not meet standards of credit-worthiness established by the Corporation" for "not of investment grade".

Pub. L. 111-203, §363(9)(A)(ii)(II), substituted "Comptroller of the Currency or the Corporation, as appropriate," for "Director of the Office of Thrift Supervision" in introductory provisions.

Subsec. (h)(2). Pub. L. 111-203, §363(9)(B), substituted "Comptroller of the Currency, of the Corporation," for "Director of the Office of Thrift Supervision".

2006—Subsecs. (a)(1), (b)(1), (c)(2)(A). Pub. L. 109-173 substituted "Deposit Insurance Fund" for "affected deposit insurance fund".

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(14)(X). See 1996 Amendment note below.

1996—Subsecs. (a)(1), (b)(1), (c)(2)(A). Pub. L. 104-208, §2704(d)(14)(X), which directed substitution of "Deposit Insurance Fund" for "affected deposit insurance fund", was repealed by Pub.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.

1994—Subsec. (c)(2)(A)(i). Pub. L. 103-325, §602(a)(56), substituted ";" or" for "or".

Subsec. (d)(4)(C). Pub. L. 103-325, §602(a)(57), substituted "subparagraph" for "subparagraphs".

Subsec. (e)(4). Pub. L. 103-325, §602(a)(58), substituted "and any other" for "any other".

1991—Subsecs. (h), (i). Pub. L. 102-242 redesignated subsec. (i) as (h) and struck out former subsec. (h) which required that all savings associations with uninsured deposits disclose in clear and conspicuous statements that its deposits were not insured.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 363(9) 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 939(a)(2), (3) of Pub. L. 111-203 effective 2 years after July 21, 2010, see section 939(g) of Pub. L. 111-203, set out as a note under section 24a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 8(b) of Pub. L. 109-173, set out as a note under section 1813 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 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 1991 AMENDMENT

Pub. L. 102-242, title I, §151(a)(3), Dec. 19, 1991, 105 Stat. 2284, provided that the amendment made by that section is effective 1 year after Dec. 19, 1991.

§ 1831f. Brokered deposits

(a) In general

An insured depository institution that is not well capitalized may not accept funds obtained,

directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.

(b) Renewals and rollovers treated as acceptance of funds

Any renewal of an account in any troubled institution and any rollover of any amount on deposit in any such account shall be treated as an acceptance of funds by such troubled institution for purposes of subsection (a).

(c) Waiver authority

The Corporation may, on a case-by-case basis and upon application by an insured depository institution which is adequately capitalized (but not well capitalized), waive the applicability of subsection (a) upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution.

(d) Limited exception for certain conservatorships

In the case of any insured depository institution for which the Corporation has been appointed as conservator, subsection (a) shall not apply to the acceptance of deposits (described in such subsection) by such institution if the Corporation determines that the acceptance of such deposits—

(1) is not an unsafe or unsound practice;

(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.

(e) Restriction on interest rate paid

(1) Definitions

In this subsection—

(A) the terms "agent institution", "reciprocal deposits", and "well capitalized" have the meanings given those terms in subsection (i); and

(B) the term "covered insured depository institution" means an insured depository institution that—

(i) under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker; or

(ii) while acting as an agent institution under subsection (i), accepts reciprocal deposits while not well capitalized.

(2) Prohibition

A covered insured depository institution may not pay a rate of interest on funds or reciprocal deposits described in paragraph (1) that, at the time that the funds or reciprocal deposits are accepted, significantly exceeds the limit set forth in paragraph (3).

(3) Limit on interest rates

The limit on the rate of interest referred to in paragraph (2) shall be—

(A) the rate paid on deposits of similar maturity in the normal market area of the cov-

ered insured depository institution for deposits accepted in the normal market area of the covered insured depository institution; or

(B) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the normal market area of the covered insured depository institution.

(f) Additional restrictions

The Corporation may impose, by regulation or order, such additional restrictions on the acceptance of brokered deposits by any institution as the Corporation may determine to be appropriate.

(g) Definitions relating to deposit broker

(1) Deposit broker

The term “deposit broker” means—

(A) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and

(B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

(2) Exclusions

The term “deposit broker” does not include—

(A) an insured depository institution, with respect to funds placed with that depository institution;

(B) an employee of an insured depository institution, with respect to funds placed with the employing depository institution;

(C) a trust department of an insured depository institution, if the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

(D) the trustee of a pension or other employee benefit plan, with respect to funds of the plan;

(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

(F) the trustee of a testamentary account;

(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 403(a) of title 26; or

(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

(3) Inclusion of depository institutions engaging in certain activities

Notwithstanding paragraph (2), the term “deposit broker” includes any insured depository institution that is not well capitalized (as defined in section 1831o of this title), and any employee of such institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area.

(4) Employee

For purposes of this subsection, the term “employee” means any employee—

(A) who is employed exclusively by the insured depository institution;

(B) whose compensation is primarily in the form of a salary;

(C) who does not share such employee's compensation with a deposit broker; and

(D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.

(h) Deposit solicitation restricted

An insured depository institution that is undercapitalized, as defined in section 1831o of this title, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

(1) in such institution's normal market areas; or

(2) in the market area in which such deposits would otherwise be accepted.

(i) Limited exception for reciprocal deposits

(1) In general

Reciprocal deposits of an agent institution shall not be considered to be funds obtained, directly or indirectly, by or through a deposit broker to the extent that the total amount of such reciprocal deposits does not exceed the lesser of—

(A) \$5,000,000,000; or

(B) an amount equal to 20 percent of the total liabilities of the agent institution.

(2) Definitions

In this subsection:

(A) Agent institution

The term “agent institution” means an insured depository institution that places a covered deposit through a deposit placement network at other insured depository institutions in amounts that are less than or equal to the standard maximum deposit insurance amount, specifying the interest rate to be paid for such amounts, if the insured depository institution—

(i)(I) when most recently examined under section 1820(d) of this title was found to have a composite condition of outstanding or good; and

(II) is well capitalized;

(ii) has obtained a waiver pursuant to subsection (c); or

(iii) does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than the

average of the total amount of reciprocal deposits held by the agent institution on the last day of each of the 4 calendar quarters preceding the calendar quarter in which the agent institution was found not to have a composite condition of outstanding or good or was determined to be not well capitalized.

(B) Covered deposit

The term “covered deposit” means a deposit that—

(i) is submitted for placement through a deposit placement network by an agent institution; and

(ii) does not consist of funds that were obtained for the agent institution, directly or indirectly, by or through a deposit broker before submission for placement through a deposit placement network.

(C) Deposit placement network

The term “deposit placement network” means a network in which an insured depository institution participates, together with other insured depository institutions, for the processing and receipt of reciprocal deposits.

(D) Network member bank

The term “network member bank” means an insured depository institution that is a member of a deposit placement network.

(E) Reciprocal deposits

The term “reciprocal deposits” means deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.

(F) Well capitalized

The term “well capitalized” has the meaning given the term in section 1831o(b)(1) of this title.

(Sept. 21, 1950, ch. 967, §2[29], as added Pub. L. 101-73, title II, §224(a), Aug. 9, 1989, 103 Stat. 273; amended Pub. L. 102-242, title III, §301(a), (c), Dec. 19, 1991, 105 Stat. 2343, 2345; Pub. L. 102-550, title XVI, §1605(a)(1), Oct. 28, 1992, 106 Stat. 4084; Pub. L. 103-325, title III, §337, Sept. 23, 1994, 108 Stat. 2235; Pub. L. 115-174, title II, §202, May 24, 2018, 132 Stat. 1307.)

Editorial Notes

AMENDMENTS

2018—Subsec. (e). Pub. L. 115-174, §202(b), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows:

“Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

“(1) the rate paid on deposits of similar maturity in such institution’s normal market area for deposits accepted in the institution’s normal market area; or

“(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution’s normal market area.”

Subsec. (i). Pub. L. 115-174, §202(a), added subsec. (i).

1994—Subsec. (g)(3). Pub. L. 103-325 inserted “that is not well capitalized (as defined in section 1831o of this title)” after “includes any insured depository institution”, substituted “of such institution” for “of any insured depository institution”, and struck out “(with respect to such deposits)” after “offering rates of interest” and “having the same type of charter” after “other insured depository institutions”.

1992—Subsec. (a). Pub. L. 102-550, §1605(a)(1)(A), substituted “An insured” for “A insured”.

Subsec. (c). Pub. L. 102-550, §1605(a)(1)(B), substituted “capitalized (but not well capitalized)” for “capitalized”.

1991—Subsec. (a). Pub. L. 102-242, §301(a)(1), substituted “insured depository institution that is not well capitalized” for “troubled institution”.

Subsec. (c). Pub. L. 102-242, §301(a)(2), substituted “insured depository institution which is adequately capitalized” for “insured depository institution”.

Subsec. (d). Pub. L. 102-242, §301(a)(3), added pars. (2) and (3) and closing provisions, struck out “and” at end of par. (1), and struck out former par. (2) which read as follows: “either—

“(A) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; or

“(B) is consistent with the conservator’s fiduciary duty to minimize the losses of the institution.”

Subsecs. (e) to (h). Pub. L. 102-242, §301(a)(4)–(6), (c), added subsec. (e), redesignated former subsec. (e) as (f) and struck out “troubled” before “institution as the”, redesignated former subsecs. (f) and (g) as (g) and (h), respectively, added subsec. (h), and struck out former subsec. (h), as previously redesignated, which defined “troubled institution”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by 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, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE

Pub. L. 101-73, title II, §224(b), Aug. 9, 1989, 103 Stat. 275, provided that: “The amendment made by subsection (a) [enacting this section] shall apply to deposits accepted after the end of the 120-day period beginning on the date of the enactment of this Act [Aug. 9, 1989].”

REGULATIONS

Pub. L. 102-242, title III, §301(d), Dec. 19, 1991, 105 Stat. 2345, provided that: “The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) [enacting section 1831f-1 of this title and amending this section] not later than 150 days after the date of enactment of this Act [Dec. 19, 1991], and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit.”

§ 1831f-1. Repealed. Pub. L. 106-569, title XII, § 1203, Dec. 27, 2000, 114 Stat. 3032

Section, act Sept. 21, 1950, ch. 967, §2[29A], as added Pub. L. 102-242, title III, §301(b), Dec. 19, 1991, 105 Stat. 2344, related to deposit broker notification and record-keeping.