Subsec. (f). Pub. L. 109–351, § 505(g), amended heading and text generally. Prior to amendment, text read as follows: ''Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.''

Pub. L. 109–351, § 505(f)(2), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 109–351, § 505(f)(2), redesignated subsec. (g) as (f).

1994—Subsec. (b)(3). Pub. L. 103–325 amended heading and text of subsec. (b)(3) generally. Prior to amendment, text read as follows: ''Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–173 effective Apr. 1, 2006, see section 2(e) of Pub. L. 109–173, set out as a note under section 1785 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–325, title III, § 340(b), Sept. 23, 1994, 108 Stat. 2238, provided that: ''Section 43(b)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1831t(b)(3)], as amended by subsection (a), shall take effect in accordance with section 151(a)(2)(D) of the Federal Deposit Insurance Corporation Improvement Act of 1991 [see Effective Date note below].''

EFFECTIVE DATE

Pub. L. 102–242, title I, § 151(a)(2), Dec. 19, 1991, 105 Stat. 2284, provided that: ''Section 40 of the Federal Deposit Insurance Act [12 U.S.C. 1831t] (as added by paragraph (1)) shall become effective on the date of enactment of this Act [Dec. 19, 1991], except that—

''(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

''(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ', and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money' omitted;

''(C) subsection (e) shall become effective 2 years after that date of enactment; and

''(D) subsection (b)(3) shall become effective 30 months after that date of enactment.''

VIABILITY OF PRIVATE DEPOSIT INSURERS

Pub. L. 102–242, title I, § 151(b), Dec. 19, 1991, 105 Stat. 2285, as amended by Pub. L. 102–550, title XVI, § 1603(f)(1), Oct. 28, 1992, 106 Stat. 4081, provided that:

''(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 43(a)(1) of the Federal Deposit Insurance Act [12 U.S.C. 1831t(a)(1)] (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act [Dec. 19, 1991].

''(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of this Act [Dec. 19, 1991], any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

''(A) describe the insurer's—

''(i) underwriting standards;

''(ii) resources, including trends in and forecasts of assets, income, and expenses;

''(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

''(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

''(3) DEFINITIONS.—For purposes of this subsection, the terms 'appropriate supervisor', 'depository institution', 'lacking Federal deposit insurance', and 'private deposit insurer' have the same meaning as in section 43(f) of the Federal Deposit Insurance Act [12 U.S.C. 1831t(f)] (as added by subsection (a)).''

§ 1831u. Interstate bank mergers

(a) Approval of interstate merger transactions authorized

(1) In general

Beginning on June 1, 1997, the responsible agency may approve a merger transaction under section 1828(c) of this title between insured banks with different home States, without regard to whether such transaction is prohibited under the law of any State.

(2) State election to prohibit interstate merger transactions

(A) In general

Notwithstanding paragraph (1), a merger transaction may not be approved pursuant to paragraph (1) if the transaction involves a bank the home State of which has enacted a law after September 29, 1994, and before June 1, 1997, that—

(i) applies equally to all out-of-State banks; and

(ii) expressly prohibits merger transactions involving out-of-State banks.

(B) No effect on prior approvals of merger transactions

A law enacted by a State pursuant to subparagraph (A) shall have no effect on merger transactions that were approved before the effective date of such law.

(3) State election to permit early interstate merger transactions

(A) In general

A merger transaction may be approved pursuant to paragraph (1) before June 1, 1997, if the home State of each bank involved in the transaction has in effect, as of the date of the approval of such transaction, a law that—

(i) applies equally to all out-of-State banks; and

(ii) expressly permits interstate merger transactions with all out-of-State banks.

(B) Certain conditions allowed

A host State may impose conditions on a branch within such State of a bank resulting from an interstate merger transaction if—

(i) the conditions do not have the effect of discriminating against out-of-State banks, out-of-State bank holding compa-

nies, or any subsidiary of such bank or company (other than on the basis of a nationwide reciprocal treatment requirement);

(ii) the imposition of the conditions is not preempted by Federal law; and

(iii) the conditions do not apply or require performance after May 31, 1997.

(4) Interstate merger transactions involving acquisitions of branches

(A) In general

An interstate merger transaction may involve the acquisition of a branch of an insured bank without the acquisition of the bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank in such State without acquiring the bank.

(B) Treatment of branch for purposes of this section

In the case of an interstate merger transaction which involves the acquisition of a branch of an insured bank without the acquisition of the bank, the branch shall be treated, for purposes of this section, as an insured bank the home State of which is the State in which the branch is located.

(5) Preservation of State age laws

(A) In general

The responsible agency may not approve an application pursuant to paragraph (1) that would have the effect of permitting an out-of-State bank or out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

(B) Special rule for State age laws specifying a period of more than 5 years

Notwithstanding subparagraph (A), the responsible agency may approve a merger transaction pursuant to paragraph (1) involving the acquisition of a bank that has been in existence at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

(6) Shell banks

For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank or branch shall be deemed to have been in existence for the same period of time as the bank or branch to be acquired.

(b) Provisions relating to application and approval process

(1) Compliance with State filing requirements

(A) In general

Any bank which files an application for an interstate merger transaction shall—

(i) comply with the filing requirements of any host State of the bank which will result from such transaction to the extent that the requirement—

(I) does not have the effect of discriminating against out-of-State banks or out-of-State bank holding companies or subsidiaries of such banks or bank holding companies; and

(II) is similar in effect to any requirement imposed by the host State on a nonbanking corporation incorporated in another State that engages in business in the host State; and

(ii) submit a copy of the application to the State bank supervisor of the host State.

(B) Penalty for failure to comply

The responsible agency may not approve an application for an interstate merger transaction if the applicant materially fails to comply with subparagraph (A).

(2) Concentration limits

(A) Nationwide concentration limits

The responsible agency may not approve an application for an interstate merger transaction if the resulting bank (including all insured depository institutions which are affiliates of the resulting bank), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

(B) Statewide concentration limits other than with respect to initial entries

The responsible agency may not approve an application for an interstate merger transaction if—

(i) any bank involved in the transaction (including all insured depository institutions which are affiliates of any such bank) has a branch in any State in which any other bank involved in the transaction has a branch; and

(ii) the resulting bank (including all insured depository institutions which would be affiliates of the resulting bank), upon consummation of the transaction, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

(C) Effectiveness of State deposit caps

No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

(D) Exceptions to subparagraph (B)

The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) without regard to the applicability of subparagraph (B) with respect to any State if—

(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

(ii) the transaction is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

(E) Exception for certain banks

This paragraph shall not apply with respect to any interstate merger transaction involving only affiliated banks.

(3) Community reinvestment compliance

In determining whether to approve an application for an interstate merger transaction in which the resulting bank would have a branch or bank affiliate immediately following the transaction in any State in which the bank submitting the application (as the acquiring bank) had no branch or bank affiliate immediately before the transaction, the responsible agency shall—

(A) comply with the responsibilities of the agency regarding such application under section 2903 of this title;

(B) take into account the most recent written evaluation under section 2903 of this title of any bank which would be an affiliate of the resulting bank; and

(C) take into account the record of compliance of any applicant bank with applicable State community reinvestment laws.

(4) Adequacy of capital and management skills

The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) only if—

(A) each bank involved in the transaction is adequately capitalized as of the date the application is filed; and

(B) the responsible agency determines that the resulting bank will be well capitalized and well managed upon the consummation of the transaction.

(5) Surrender of charter after merger transaction

The charters of all banks involved in an interstate merger transaction, other than the charter of the resulting bank, shall be surrendered, upon request, to the Federal banking agency or State bank supervisor which issued the charter.

(c) Applicability of certain laws to interstate banking operations

(1) State taxation authority not affected

(A) In general

No provision of this section shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

(B) Imposition of shares tax by host States

In the case of a branch of an out-of-State bank which results from an interstate merger transaction, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by the host State, or any political subdivision of such host State that imposes such tax based upon a method adopted by the host State, which may include allocation and apportionment.

(2) Applicability of antitrust laws

No provision of this section shall be construed as affecting—

(A) the applicability of the antitrust laws; or

(B) the applicability, if any, of any State law which is similar to the antitrust laws.

(3) Reservation of certain rights to States

No provision of this section shall be construed as limiting in any way the right of a State to—

(A) determine the authority of State banks chartered by that State to establish and maintain branches; or

(B) supervise, regulate, and examine State banks chartered by that State.

(4) State-imposed notice requirements

A host State may impose any notification or reporting requirement on a branch of an out-of-State bank if the requirement—

(A) does not discriminate against out-of-State banks or bank holding companies; and

(B) is not preempted by any Federal law regarding the same subject.

(d) Operations of the resulting bank

(1) Continued operations

A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate, as a main office or a branch, any office that any bank involved in an interstate merger transaction was operating as a main office or a branch immediately before the merger transaction.

(2) Additional branches

Following the consummation of any interstate merger transaction, the resulting bank may establish, acquire, or operate additional branches at any location where any bank involved in the transaction could have established, acquired, or operated a branch under applicable Federal or State law if such bank had not been a party to the merger transaction.

(3) Certain conditions and commitments continued

If, as a condition for the acquisition of a bank by an out-of-State bank holding company before September 29, 1994—

(A) the home State of the acquired bank imposed conditions on such acquisition by such out-of-State bank holding company; or

(B) the bank holding company made commitments to such State in connection with the acquisition,

the State may enforce such conditions and commitments with respect to such bank holding company or any affiliated successor company which controls a bank or branch in such State as a result of an interstate merger transaction to the same extent as the State could enforce such conditions or commitments against the bank holding company before the consummation of the merger transaction.

(e) Exception for banks in default or in danger of default

If an application under subsection (a)(1) for approval of a merger transaction which involves 1 or more banks in default or in danger of default or with respect to which the Corporation provides assistance under section 1823(c) of this title, the responsible agency may approve such application without regard to subsection (b), or paragraph (2), (4), or (5) of subsection (a).

(f) Applicable rate and other charge limitations

(1) In general

In the case of any State that has a constitutional provision that sets a maximum lawful annual percentage rate of interest on any contract at not more than 5 percent above the discount rate for 90-day commercial paper in effect at the Federal reserve bank for the Federal reserve district in which such State is located, except as provided in paragraph (2), upon the establishment in such State of a branch of any out-of-State insured depository institution in such State under this section, the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved (or in the case of a governmental entity located in such State, paid) from time to time in any loan or discount made or upon any note, bill of exchange, financing transaction, or other evidence of debt by—

(A) any insured depository institution whose home State is such State shall be equal to not more than the greater of—

(i) the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction under the constitution or any statute or other law of the home State of the out-of-State insured depository institution establishing any such branch, without reference to this section, as such maximum interest rate or amount of interest may change from time to time; or

(ii) the maximum rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by a State insured depository institution chartered under the laws of such State or a national bank or Federal savings association whose main office is located in such State without reference to this section; and

(B) any governmental entity located in such State or any person that is not a depository institution described in subparagraph (A) doing business in such State, shall be equal to not more than the greater of the State's maximum lawful annual percentage rate or 17 percent—

(i) to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

(I) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of title 26;

(II) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such title;

(III) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

(aa) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such title; and

(bb) the issuance of low income housing tax credits as set forth in section 42 of such title; and

(IV) the uniform accessibility of bonds and obligations issued under the American Recovery and Reinvestment Act of 2009;

(ii) to facilitate interstate commerce through the issuance of bonds and obligations under any provision of State law, including bonds and obligations for the purpose of economic development, education, and improvements to infrastructure; and

(iii) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).

(2) Rule of construction

(A) In general

No provision of this subsection shall be construed as superseding or affecting—

(i) the authority of any insured depository institution to take, receive, reserve, and charge interest on any loan made in any State other than the State referred to in paragraph (1); or

(ii) the applicability of section 1735f–7a of this title, section 85 of this title, or section 1831d of this title.

(B) Applicability

This subsection shall be construed to apply to any loan or discount made, or note, bill of exchange, financing transaction, or other evidence of debt, originated by an insured

depository institution, a governmental entity located in such State, or a person that is not a depository institution described in subparagraph (A) doing business in such State.

(g) Definitions

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

(1) Adequately capitalized

The term ''adequately capitalized'' has the same meaning as in section 1831*o* of this title.

(2) Antitrust laws

The term ''antitrust laws''—

(A) has the same meaning as in subsection (a) of section 12 of title 15; and

(B) includes section 45 of title 15 to the extent such section 45 relates to unfair methods of competition.

(3) Branch

The term ''branch'' means any domestic branch.

(4) Home State

The term ''home State''—

(A) means—

(i) with respect to a national bank, the State in which the main office of the bank is located; and

(ii) with respect to a State bank, the State by which the bank is chartered; and

(B) with respect to a bank holding company, has the same meaning as in section 1841(*o*)(4) of this title.

(5) Host State

The term ''host State'' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

(6) Interstate merger transaction

The term ''interstate merger transaction'' means any merger transaction approved pursuant to subsection (a)(1).

(7) Merger transaction

The term ''merger transaction'' has the meaning determined under section 1828(c)(3) of this title.

(8) Out-of-State bank

The term ''out-of-State bank'' means, with respect to any State, a bank whose home State is another State.

(9) Out-of-State bank holding company

The term ''out-of-State bank holding company'' means, with respect to any State, a bank holding company whose home State is another State.

(10) Responsible agency

The term ''responsible agency'' means the agency determined in accordance with section 1828(c)(2) of this title with respect to a merger transaction.

(11) Resulting bank

The term ''resulting bank'' means a bank that has resulted from an interstate merger transaction under this section.

(Sept. 21, 1950, ch. 967, § 2[44], as added Pub. L. 103–328, title I, § 102(a), Sept. 29, 1994, 108 Stat. 2343; amended Pub. L. 106–102, title VII, § 731, Nov. 12, 1999, 113 Stat. 1477; Pub. L. 111–32, title V, § 504(a), June 24, 2009, 123 Stat. 1880; Pub. L. 111–83, title V, § 563(a), (b), Oct. 28, 2009, 123 Stat. 2183; Pub. L. 111–203, title VI, § 607(b), July 21, 2010, 124 Stat. 1608.)

Editorial Notes

REFERENCES IN TEXT

The American Recovery and Reinvestment Act of 2009, referred to in subsec. (f)(1)(B)(i)(IV), is Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 115. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

AMENDMENTS

2010—Subsec. (b)(4)(B). Pub. L. 111–203 substituted ''will be well capitalized and well managed'' for ''will continue to be adequately capitalized and adequately managed''.

2009—Subsec. (f)(1). Pub. L. 111–83, § 563(a)(1), inserted ''(or in the case of a governmental entity located in such State, paid)'' after ''received, or reserved'' in introductory provisions.

Pub. L. 111–32 substituted ''evidence of debt by—'' for ''evidence of debt by'', inserted subpar. (A) designation, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, realigned margins, and added subpar. (B).

Subsec. (f)(1)(B). Pub. L. 111–83, § 563(a)(2)(A), substituted ''governmental entity located in such State or any person that is not a depository institution described in subparagraph (A) doing business in such State'' for ''nondepository institution operating in such State'' in introductory provisions.

Subsec. (f)(1)(B)(i)(III)(aa). Pub. L. 111–83, § 563(a)(2)(C)(i)(I), inserted ''and'' at end.

Subsec. (f)(1)(B)(i)(III)(bb). Pub. L. 111–83, § 563(a)(2)(C)(i)(II), struck out '', to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009'' after ''section 42 of such title''.

Subsec. (f)(1)(B)(i)(III)(cc). Pub. L. 111–83, § 563(a)(2)(C)(i)(III), struck out item (cc), which read as follows: ''the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and''.

Subsec. (f)(1)(B)(i)(IV). Pub. L. 111–83, § 563(a)(2)(C)(ii), added subcl. (IV).

Subsec. (f)(1)(B)(ii), (iii). Pub. L. 111–83, § 563(a)(2)(B), (D), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (f)(2). Pub. L. 111–83, § 563(b), designated existing provisions as subpar. (A), inserted heading, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), realigned margins, and added subpar. (B).

1999—Subsecs. (f), (g). Pub. L. 106–102 added subsec. (f) and redesignated former subsec. (f) as (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title VI, § 607(c), July 21, 2010, 124 Stat. 1608, provided that: ''The amendments made by this section [amending this section and section 1842 of this title] shall take effect on the transfer date.''

[For definition of ''transfer date'' as used in section 607(c) of Pub. L. 111–203, set out above, see section 5301 of this title.]

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–83, title V, § 563(c), Oct. 28, 2009, 123 Stat. 2184, provided that: ''The amendments made by this

section [amending this section] shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act [Oct. 28, 2009] and ending on December 31, 2010.''

Pub. L. 111–32, title V, § 504(b), June 24, 2009, 123 Stat. 1880, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act [June 24, 2009] and ending on December 31, 2010.''

§ 1831v. Authority of State insurance regulator and Securities and Exchange Commission

(a) In general

Notwithstanding any other provision of law, the provisions of—

(1) section 1844(c) of this title that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on holding companies and their functionally regulated subsidiaries or that require deference to other regulators;

(2) section 1844(g) of this title that limit the authority of the Board to require a functionally regulated subsidiary of a holding company to provide capital or other funds or assets to a depository institution subsidiary of the holding company and to take certain actions including requiring divestiture of the depository institution; and

(3) section 1848a[1] of this title that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to holding companies and their functionally regulated subsidiaries;

shall also limit whatever authority that a Federal banking agency might otherwise have under any statute or regulation to require reports, make examinations, impose capital requirements, or take any other direct or indirect action with respect to any functionally regulated affiliate of a depository institution, subject to the same standards and requirements as are applicable to the Board under those provisions.

(b) Certain exemption authorized

No provision of this section shall be construed as preventing the Corporation, if the Corporation finds it necessary to determine the condition of a depository institution for insurance purposes, from examining an affiliate of any depository institution, pursuant to section 1820(b)(4) of this title, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

(c) Definitions

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

(1) Functionally regulated subsidiary

The term ''functionally regulated subsidiary'' has the meaning given the term in section 1844(c)(5) of this title.

(2) Functionally regulated affiliate

The term ''functionally regulated affiliate'' means, with respect to any depository institution, any affiliate of such depository institution that is—

(A) not a depository institution holding company; and

(B) a company described in any clause of section 1844(c)(5)(B) of this title.

(Sept. 21, 1950, ch. 967, § 2[45], as added Pub. L. 106–102, title I, § 112(b), Nov. 12, 1999, 113 Stat. 1367.)

[1] See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Section 1848a of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 111–203, title VI, § 604(c)(2), July 21, 2010, 124 Stat. 1601.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106–102, set out as an Effective Date of 1999 Amendment note under section 24 of this title.

§ 1831w. Safety and soundness firewalls applicable to financial subsidiaries of banks

(a) In general

An insured State bank may control or hold an interest in a subsidiary that engages in activities as principal that would only be permissible for a national bank to conduct through a financial subsidiary if—

(1) the State bank and each insured depository institution affiliate of the State bank are well capitalized (after the capital deduction required by paragraph (2));

(2) the State bank complies with the capital deduction and financial statement disclosure requirements in section 24a(c) of this title;

(3) the State bank complies with the financial and operational safeguards required by section 24a(d) of this title; and

(4) the State bank complies with the amendments to sections 23A and 23B of the Federal Reserve Act [12 U.S.C. 371c and 371c–1] made by section 121(b) of the Gramm-Leach-Bliley Act.

(b) Preservation of existing subsidiaries

Notwithstanding subsection (a), an insured State bank may retain control of a subsidiary, or retain an interest in a subsidiary, that the State bank lawfully controlled or acquired before November 12, 1999, and conduct through such subsidiary any activities lawfully conducted in such subsidiary as of such date.

(c) Definitions

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

(1) Subsidiary

The term ''subsidiary'' means any company that is a subsidiary (as defined in section 1813(w)(4) of this title) of 1 or more insured banks.

(2) Financial subsidiary

The term ''financial subsidiary'' has the meaning given the term in section 24a(g) of this title.

(d) Preservation of authority

(1) This chapter

No provision of this section shall be construed as superseding the authority of the