

in such amounts as the Board of Directors of the Bank deems appropriate, except that—

(A) such contributions may be made only out of the Bank's earnings, determined in accordance with generally accepted accounting principles; and

(B) the Bank shall set aside amounts sufficient to satisfy its obligations to the Secretary of the Treasury for payments of principal and interest on class A notes and other debt before making any contributions to such nonprofit corporation.

(2) During any period in which the nonprofit corporation described in subsection (b) is qualified as an organization described in section 501(c)(3) of title 26, contributions made by the Bank pursuant to paragraph (1) shall be treated as charitable contributions within the meaning of section 170(c)(2) of title 26, and may be deducted notwithstanding the provisions of section 170(b)(2) of title 26.

(3) During any period in which the nonprofit corporation described in subsection (b) is qualified as an organization described in section 501(c)(3) of title 26, contributions to such nonprofit corporation by any person shall qualify as charitable contributions, as defined in section 170(c) of title 26, for purposes of the charitable contribution deduction provided for in section 170(a) of title 26, and shall also qualify for the deductions for estate and gift tax purposes provided for in sections 2055 and 2522 of title 26.

(e) Conflict of interest rules

Notwithstanding the laws of the District of Columbia, the Board of Directors of such nonprofit corporation shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the conflict of interest provisions adopted by the Board of Directors of the Bank pursuant to section 3024 of this title.

(Pub. L. 95-351, title II, § 211, as added Pub. L. 97-35, title III, § 395(a), Aug. 13, 1981, 95 Stat. 437; amended Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

Editorial Notes

AMENDMENTS

1986—Subsecs. (b)(3)(C), (c), (d)(2), (3). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

CHAPTER 32—FOREIGN BANK PARTICIPATION IN DOMESTIC MARKETS

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§ 3101. Definitions

For the purposes of this chapter—

(1) “agency” means any office or any place of business of a foreign bank located in any State of the United States at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are paid, or money is lent but at which deposits may not be accepted from citizens or residents of the United States;

(2) “Board” means the Board of Governors of the Federal Reserve System;

(3) “branch” means any office or any place of business of a foreign bank located in any State of the United States at which deposits are received;

(4) “Comptroller” means the Comptroller of the Currency;

(5) “Federal agency” means an agency of a foreign bank established and operating under section 3102 of this title;

(6) “Federal branch” means a branch of a foreign bank established and operating under section 3102 of this title;

(7) “foreign bank” means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. For the purposes of this chapter the term “foreign bank” includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(8) “foreign country” means any country other than the United States, and includes any colony, dependency, or possession of any such country;

(9) “commercial lending company” means any institution, other than a bank or an organization operating under section 25 of the Federal Reserve Act [12 U.S.C. 601 et seq.], organized under the laws of any State of the United States, or the District of Columbia which maintains credit balances incidental to or arising out of the exercise of banking powers and engages in the business of making commercial loans;

(10) “State” means any State of the United States or the District of Columbia;

(11) “State agency” means an agency of a foreign bank established and operating under the laws of any State;

(12) “State branch” means a branch of a foreign bank established and operating under the laws of any State;

(13) the terms “affiliate,”¹ “bank”, “bank holding company”, “company”, “control”, and “subsidiary” have the same meanings assigned to those terms in the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], and the terms “controlled” and “controlling” shall be construed consistently with the term “con-

¹ So in original. The comma probably should follow the quotation marks.

trol" as defined in section 2 of the Bank Holding Company Act of 1956 [12 U.S.C. 1841];

(14) "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States consistently applied;

(15) the term "representative office" means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, or State agency;

(16) the term "office" means any branch, agency, or representative office; and

(17) the term "State bank supervisor" has the meaning given to such term in section 1813 of this title.

(Pub. L. 95-369, §1(b), Sept. 17, 1978, 92 Stat. 607; Pub. L. 102-242, title II, §202(e), Dec. 19, 1991, 105 Stat. 2290; Pub. L. 106-102, title I, §142(a), Nov. 12, 1999, 113 Stat. 1384.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 95-369, Sept. 17, 1978, 92 Stat. 607, known as the International Banking Act of 1978, which enacted this chapter and sections 347d and 611a of this title, amended sections 72, 378, 614, 615, 618, 619, 1813, 1815, 1817, 1818, 1820 to 1823, 1828, 1829b, 1831b, and 1841 of this title, and enacted provisions set out as notes under this section and sections 36, 247, 601, and 611a of this title and formerly set out as notes under sections 36, 247, and 601 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Bank Holding Company Act of 1956, referred to in par. (13), is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

AMENDMENTS

1999—Par. (15). Pub. L. 106-102 substituted "or State agency;" for "State agency, or subsidiary of a foreign bank;".

1991—Par. (13). Pub. L. 102-242, §202(e)(1), inserted reference to affiliate after first reference to "the terms".

Pars. (15) to (17). Pub. L. 102-242, §202(e)(2), added pars. (15) to (17).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-102 effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106-102, set out as a note under section 24 of this title.

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-242, title II, §201, Dec. 19, 1991, 105 Stat. 2286, provided that: "This subtitle [subtitle A (§§201-215) of title II of Pub. L. 102-242, enacting sections 3109 to 3111 of this title, amending this section and sections 1467a, 1817, 1820, 1842, 2803, 2804, 3102, 3104 to 3108, and 4009 of this title and sections 44, 57a, 1607, 1681s, 1691c, 1692l, and 1693o of Title 15, Commerce and Trade, and enacting provisions set out as a note under section 3102 of this title] may be cited as the 'Foreign Bank Supervision Enhancement Act of 1991'."

SHORT TITLE

Pub. L. 95-369, §1(a), Sept. 17, 1978, 92 Stat. 607, provided that: "This Act [enacting this chapter and sections 347d and 611a of this title, amending sections 72, 378, 614, 615, 618, 619, 1813, 1815, 1817, 1818, 1820 to 1823,

1828, 1829b, 1831b and 1841 of this title, and enacting provisions set out as notes under sections 36, 247, 601, and 611a of this title] may be cited as the 'International Banking Act of 1978'."

FOREIGN CONTROL OF UNITED STATES FINANCIAL INSTITUTIONS

Pub. L. 96-221, title IX, §§901, 902, Mar. 31, 1980, 94 Stat. 192, 193, provided that:

"SEC. 901. For purposes of this title enacting this provision—

"(1) the term 'domestic financial institution' means any bank, mutual savings bank, or savings and loan association organized under the laws of any State or of the United States;

"(2) the term 'foreign person' means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual; and

"(3) the term 'takeover' means any acquisition of the stock or assets of any domestic financial institution if, after such acquisition, the amount of stock or assets held is 5 per centum or more of the institution's stock or assets.

"SEC. 902. The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board may not approve any application relating to the takeover of any domestic financial institution by a foreign person until July 1, 1980, unless—

"(1) such takeover is necessary to prevent the bankruptcy or insolvency of the domestic financial institution involved;

"(2) the application was initially submitted for filing on or before March 5, 1980;

"(3) the domestic financial institution has deposits of less than \$100,000,000;

"(4) the application relates to a takeover of shares or assets pursuant to a foreign person's intrafirm reorganization of its interests in a domestic financial institution, including specifically any application to establish a bank holding company pursuant to such reorganization;

"(5) the application relates to a takeover of the assets or shares of a domestic financial institution if such assets or shares are owned or controlled by a foreign person; or

"(6) the application relates to the takeover of a domestic financial institution which is a subsidiary of a bank holding company under an order to divest by December 31, 1980."

§3102. Establishment of Federal branches and agencies by foreign bank

(a) Establishment and operation of Federal branches and agencies

(1) Initial Federal branch or agency

Except as provided in section 3103 of this title, a foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller, establish one or more Federal branches or agencies in any State in which (1) it is not operating a branch or agency pursuant to State law and (2) the establishment of a branch or agency, as the case may be, by a foreign bank is not prohibited by State law.

(2) Board conditions required to be included

In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 3105(d)(5) of this title as a condition for the approval of such application by the agency.