

section, may establish and operate, outside its home State, any State branch, State agency, or bank or commercial lending company subsidiary which commenced lawful operation or for which an application to commence business had been lawfully filed with the appropriate State or Federal authority, as the case may be, on or before July 27, 1978. Notwithstanding subsection (a), a foreign bank may continue to operate, after September 29, 1994, any Federal branch, State branch, Federal agency, State agency, or commercial lending company subsidiary which such bank was operating on the day before September 29, 1994, to the extent the branch, agency, or subsidiary continues, after September 29, 1994, to engage in operations which were lawful under the laws in effect on the day before September 29, 1994.

(c) Determination of home State of foreign bank

For the purposes of this section—

(1) in the case of a foreign bank that has any branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the 1 State of such States which is selected to be the home State by the foreign bank or, in default of any such selection, by the Board; and

(2) in the case of a foreign bank that does not have a branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the State in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank.

(d) Clarification of branching rules in case of foreign bank with domestic bank subsidiary

In the case of a foreign bank that has a domestic bank subsidiary within the United States—

(1) the fact that such bank controls a domestic bank shall not affect the authority of the foreign bank to establish Federal and State branches or agencies to the extent permitted under subsection (a); and

(2) the fact that the domestic bank is controlled by a foreign bank which has Federal or State branches or agencies in States other than the home State of such domestic bank shall not affect the authority of the domestic bank to establish branches outside the home State of the domestic bank to the extent permitted under section 36(g) of this title or section 1828(d)(4) or 1831u of this title, as the case may be.

(Pub. L. 95-369, § 5, Sept. 17, 1978, 92 Stat. 613; Pub. L. 103-328, title I, §§ 104, 107(f), Sept. 29, 1994, 108 Stat. 2354, 2361; Pub. L. 106-102, title VII, § 732, Nov. 12, 1999, 113 Stat. 1478.)

Editorial Notes

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (a)(1), (2), see References in Text note set out under section 3101 of this title.

The Community Reinvestment Act of 1977, referred to in subsec. (a)(8)(A), is title VIII of Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1147, which is classified generally to chapter 30 (§ 2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

Section 25A of the Federal Reserve Act, referred to in subsec. (a)(7)(A)(ii), (8)(B), popularly known as the Edge Act, is classified to subchapter II (§ 611 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 611 of this title and Tables.

AMENDMENTS

1999—Subsec. (a)(7). Pub. L. 106-102 amended heading and text of par. (7) generally. Prior to amendment, text read as follows: “Notwithstanding paragraphs (1) and (2), a foreign bank may, with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank’s home State if—

“(A) the establishment and operation of a branch or agency is expressly permitted by the State in which the branch or agency is to be established; and

“(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25A of the Federal Reserve Act.”

1994—Subsec. (a). Pub. L. 103-328, §§ 104(a), 107(f), inserted heading and substituted provisions consisting of pars. (1) to (9) for former provisions relating to limitations on interstate banking by foreign banks.

Subsec. (b). Pub. L. 103-328, § 104(b), inserted at end “Notwithstanding subsection (a), a foreign bank may continue to operate, after September 29, 1994, any Federal branch, State branch, Federal agency, State agency, or commercial lending company subsidiary which such bank was operating on the day before September 29, 1994, to the extent the branch, agency, or subsidiary continues, after September 29, 1994, to engage in operations which were lawful under the laws in effect on the day before September 29, 1994.”

Subsec. (c). Pub. L. 103-328, § 104(d), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “For the purposes of this section, the home State of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks, or any combination thereof, in more than one State, is whichever of such States is so determined by election of the foreign bank, or, in default of such election, by the Board.”

Subsec. (d). Pub. L. 103-328, § 104(c), added subsec. (d).

§ 3104. Insurance of deposits

(a) Objective

In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.

(b) Deposits of less than amount equal to the standard maximum deposit insurance amount

No foreign bank may establish or operate a Federal branch which receives deposits of less than an amount equal to the standard maximum deposit insurance amount unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act [12 U.S.C. 1813(s)], or unless the Comptroller determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

(c) Deposits required to be insured under State law

(1) After September 17, 1978, no foreign bank may establish a branch, and after one year following such date no foreign bank may operate a branch, in any State in which the deposits of a bank organized and existing under the laws of that State would be required to be insured, unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act [12 U.S.C. 1813(s)], or unless the branch will not thereafter accept deposits of less than an amount equal to the standard maximum deposit insurance amount, or unless the Federal Deposit Insurance Corporation determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

(2) Notwithstanding the previous paragraph, a branch of a foreign bank in operation on September 17, 1978, which has applied for Federal deposit insurance pursuant to section 5 of the Federal Deposit Insurance Act [12 U.S.C. 1815] by September 17, 1979, and has not had such application denied, may continue to accept domestic retail deposits until January 31, 1980.

(d) Retail deposit-taking by foreign banks

(1) In general

After December 19, 1991, notwithstanding any other provision of this chapter or any provision of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], in order to accept or maintain domestic retail deposit accounts having balances of less than an amount equal to the standard maximum deposit insurance amount, and requiring deposit insurance protection, a foreign bank shall—

(A) establish 1 or more banking subsidiaries in the United States for that purpose; and

(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

(2) Exception

Domestic retail deposit accounts with balances of less than an amount equal to the standard maximum deposit insurance amount that require deposit insurance protection may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on December 19, 1991.

(3) Insured banks in U.S. territories

For purposes of this subsection, the term “foreign bank” does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(e) Standard maximum deposit insurance amount defined

For purposes of this section, the term “standard maximum deposit insurance amount” means the amount of the maximum amount of deposit insurance as determined under section 11(a)(1) of the Federal Deposit Insurance Act [12 U.S.C. 1821(a)(1)].

(Pub. L. 95-369, §6, Sept. 17, 1978, 92 Stat. 614; Pub. L. 96-64, Sept. 14, 1979, 93 Stat. 412; Pub. L. 102-242, title II, §214(a), Dec. 19, 1991, 105 Stat. 2303; Pub. L. 102-550, title XVI, §1604(a)(10), (11), Oct. 28, 1992, 106 Stat. 4082, 4083; Pub. L. 102-558, title III, §§302(a), 305, Oct. 28, 1992, 106 Stat. 4224, 4226; Pub. L. 103-328, title I, §107(a), (d), Sept. 29, 1994, 108 Stat. 2358, 2360; Pub. L. 109-173, §2(c)(4), Feb. 15, 2006, 119 Stat. 3602.)

Editorial Notes

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (d)(1), see References in Text note set out under section 3101 of this title.

The Federal Deposit Insurance Act, referred to in subsec. (d)(1), (3), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

2006—Subsecs. (b), (c)(1), (d)(1), (2). Pub. L. 109-173, §2(c)(4)(A), substituted “an amount equal to the standard maximum deposit insurance amount” for “\$100,000”.

Subsec. (e). Pub. L. 109-173, §2(c)(4)(B), added subsec. (e).

1994—Subsecs. (a) to (d). Pub. L. 103-328, §107(a), added subsec. (a) and redesignated former subsecs. (a) to (c) as (b) to (d), respectively.

Subsec. (d)(3). Pub. L. 103-328, §107(d), added par. (3).

1992—Subsec. (c). Pub. L. 102-550, §1604(a)(10), struck out the subsec. (c) which was in effect before the subsec. (c) added by Pub. L. 102-242, §214(a)(3), and which amended various other sections of this title.

Subsec. (c)(1). Pub. L. 102-558, §302(a)(1), inserted “domestic retail” before “deposit accounts” and “and requiring deposit insurance protection,” after “\$100,000,” in introductory provisions. Pub. L. 102-550, §1604(a)(11)(A), which made an identical amendment, was repealed, effective Oct. 28, 1992, by Pub. L. 102-558, §305, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

Subsec. (c)(2). Pub. L. 102-558, §302(a)(2), substituted “Domestic retail deposit” for “Deposit” and inserted “that require deposit insurance protection” after “\$100,000”. Pub. L. 102-550, §1604(a)(11)(B), which made an identical amendment, was repealed, effective Oct. 28, 1992, by Pub. L. 102-558, §305, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

1991—Subsec. (b). Pub. L. 102-242, §214(a)(1), (2), redesignated subsec. (b) as (b)(1) and designated last undesignated par. as par. (2).

Subsec. (c). Pub. L. 102-242, §214(a)(3), added subsec. (c).

1979—Subsec. (b). Pub. L. 96-64 inserted second par. which extended time for foreign banks to obtain required deposit insurance with respect to domestic existing branches.

Statutory Notes and Related Subsidiaries

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 1992 AMENDMENTS

Pub. L. 102-558, title III, §302(b), Oct. 28, 1992, 106 Stat. 4224, provided that: “This section, and the amendments made by this section [amending this section], shall have the same effective date as the Federal Deposit Insurance Corporation Improvement Act of 1991 [Pub. L. 102-242].”

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.

REGULATIONS

Pub. L. 103-328, title I, §107(b), Sept. 29, 1994, 108 Stat. 2359, provided that:

“(1) IN GENERAL.—Each Federal banking agency, after consultation with the other Federal banking agencies to assure uniformity, shall revise the regulations adopted by such agency under section 6 of the International Banking Act of 1978 [12 U.S.C. 3104] to ensure that the regulations are consistent with the objective set forth in section 6(a) of the International Banking Act of 1978.

“(2) SPECIFIC FACTORS.—In carrying out paragraph (1), each Federal banking agency shall consider whether to permit an uninsured branch of a foreign bank to accept initial deposits of less than \$100,000 only from—

“(A) individuals who are not citizens or residents of the United States at the time of the initial deposit;

“(B) individuals who—

“(i) are not citizens of the United States;

“(ii) are residents of the United States; and

“(iii) are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

“(C) persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

“(D) foreign businesses and large United States businesses;

“(E) foreign governmental units and recognized international organizations; and

“(F) persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds.

“(3) REDUCTION IN REGULATORY DE MINIMIS EXEMPTION.—In carrying out paragraph (1), each Federal banking agency shall limit any exemption which is—

“(A) available under any regulation prescribed pursuant to section 6(d) of the International Banking Act of 1978 [12 U.S.C. 3104(d)] providing for the acceptance of initial deposits of less than \$100,000 by an uninsured branch of a foreign bank; and

“(B) based on a percentage of the average deposits at such branch;

to not more than 1 percent of the average deposits at such branch.

“(4) ADDITIONAL RELEVANT CONSIDERATIONS.—In carrying out paragraph (1), each Federal banking agency shall also consider the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State [sic] economy.

“(5) DEADLINE FOR PRESCRIBING REVISED REGULATIONS.—Each Federal banking agency—

“(A) shall publish final regulations under paragraph (1) in the Federal Register not later than 12 months after the date of enactment of this Act [Sept. 29, 1994]; and

“(B) may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that were permissible under regulations that were in effect before the date of enactment of this Act.

“(6) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘Federal banking agency’ means—

“(i) the Comptroller of the Currency with respect to Federal branches of foreign banks; and

“(ii) the Federal Deposit Insurance Corporation with respect to State branches of foreign banks; and

“(B) the term ‘uninsured branch’ means a branch of a foreign bank that is not an insured branch, as defined in section 3(s)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)(3)).”

§ 3105. Authority of Federal Reserve System

(a) Bank reserves

(1)(A) Except as provided in paragraph (2) of this subsection, sections 371a,¹ 371b, 371b-1,¹ 374, 374a, 461, 464, and 465 of this title shall apply to every Federal branch and Federal agency of a foreign bank in the same manner and to the same extent as if the Federal branch or Federal agency were a member bank as that term is defined in section 221 of this title; but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under sections 461, 463, 464, 465, and 466 of this title and may prescribe any ratio, not more than 22 per centum, for any obligation of any such Federal branch or Federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on Federal branches and Federal agencies in such graduated manner as it deems reasonable and appropriate.

(B) After consultation and in cooperation with the State bank supervisory authorities, the Board may make applicable to any State branch or State agency any requirement made applicable to, or which the Board has authority to impose upon, any Federal branch or agency under subparagraph (A) of this paragraph.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of \$1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1,000,000,000.

(b) Omitted

(c) Foreign bank examinations and reporting

(1) Examination of branches, agencies, and affiliates

(A) In general

The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

(B) Coordination of examinations

(i) In general

The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

¹ See References in Text note below.