(2) Back-up authority of the Board of Governors

If, during the 60-day period beginning on the date on which the primary financial regulatory agency receives a recommendation under paragraph (1), the primary financial regulatory agency does not take supervisory or enforcement action against a subsidiary that is acceptable to the Board of Governors, the Board of Governors (upon a vote of its members) may take the recommended supervisory or enforcement action, as if the subsidiary were a bank holding company subject to supervision by the Board of Governors.

(Pub. L. 111–203, title I, §162, July 21, 2010, 124 Stat. 1421.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), is Pub. L. 111–203, July 21, 2010, 124 Stat. 1376, known as the Dodd-Frank Wall Street Reform and Consumer Protection Act, which enacted this chapter and chapters 108 (§8201 et seq.) and 109 (§8301 et seq.) of Title 15, Commerce and Trade, and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

§ 5363. Acquisitions

(a) Acquisitions of banks; treatment as a bank holding company

For purposes of section 1842 of this title, a nonbank financial company supervised by the Board of Governors shall be deemed to be, and shall be treated as, a bank holding company.

(b) Acquisition of nonbank companies

(1) Prior notice for large acquisitions

Notwithstanding section 1843(k)(6)(B) of this title, a bank holding company with total consolidated assets equal to or greater than $250,000,000,000 or a nonbank financial company supervised by the Board of Governors shall not acquire direct or indirect ownership or control of any voting shares of any company (other than an insured depository institution) that is engaged in activities described in section 1843(k) of this title having total consolidated assets of $10,000,000,000 or more, without providing written notice to the Board of Governors in advance of the transaction.

(2) Exemptions

The prior notice requirement in paragraph (1) shall not apply with regard to the acquisition of shares that would qualify for the exemptions in section 1843(c) of this title or section 1843(k)(4)(E) of this title.

(3) Notice procedures

The notice procedures set forth in section 1843(j)(1) of this title, without regard to section 1843(j)(3) of this title, shall apply to an acquisition of any company (other than an insured depository institution) by a bank holding company with total consolidated assets equal to or greater than $250,000,000,000 or a nonbank financial company supervised by the Board of Governors, as described in paragraph (1), including any such company engaged in activities described in section 1843(k) of this title.

(4) Standards for review

In addition to the standards provided in section 1843(j)(2) of this title, the Board of Governors shall consider the extent to which the proposed acquisition would result in greater or more concentrated risks to global or United States financial stability or the United States economy.

(5) Hart-Scott-Rodino filing requirement

Solely for purposes of section 18a(c)(8) of title 15, the transactions subject to the requirements of paragraph (1) shall be treated as if Board of Governors approval is not required.

(Pub. L. 111–203, title I, §163, July 21, 2010, 124 Stat. 1422; Pub. L. 115–174, title IV, §401(c)(1)(E), May 24, 2018, 132 Stat. 1358.)

Editorial Notes

AMENDMENTS

2018—Subsec. (b)(1), (3). Pub. L. 115–174 substituted ''$250,000,000,000'' for ''$50,000,000,000''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 115–174 effective 18 months after May 24, 2018, see section 401(d) of Pub. L. 115–174, set out as a note under section 5365 of this title.

CONSTRUCTION OF 2018 AMENDMENT

For construction of amendment by Pub. L. 115–174 as applied to certain foreign banking organizations, see section 401(g) of Pub. L. 115–174, set out as a note under section 5365 of this title.

§ 5364. Prohibition against management interlocks between certain financial companies

A nonbank financial company supervised by the Board of Governors shall be treated as a bank holding company for purposes of the Depository Institutions[1] Management Interlocks Act (12 U.S.C. 3201 et seq.), except that the Board of Governors shall not exercise the authority provided in section 7[2] of that Act (12 U.S.C. 3207) to permit service by a management official of a nonbank financial company supervised by the Board of Governors as a management official of any bank holding company with total consolidated assets equal to or greater than $250,000,000,000, or other nonaffiliated nonbank financial company supervised by the Board of Governors (other than to provide a temporary exemption for interlocks resulting from a merger, acquisition, or consolidation).

(Pub. L. 111–203, title I, §164, July 21, 2010, 124 Stat. 1423; Pub. L. 115–174, title IV, §401(c)(1)(F), May 24, 2018, 132 Stat. 1358.)

Editorial Notes

REFERENCES IN TEXT

The Depository Institution Management Interlocks Act, referred to in text, is title II of Pub. L. 95–630, Nov.

[1] So in original. Probably should be ''Institution''.

[2] So in original. There is no section 7 of such Act.

10, 1978, 92 Stat. 3672, which is classified principally to chapter 33 (§ 3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

AMENDMENTS

2018—Pub. L. 115–174 substituted ''$250,000,000,000'' for ''$50,000,000,000''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 115–174 effective 18 months after May 24, 2018, see section 401(d) of Pub. L. 115–174, set out as a note under section 5365 of this title.

CONSTRUCTION OF 2018 AMENDMENT

For construction of amendment by Pub. L. 115–174 as applied to certain foreign banking organizations, see section 401(g) of Pub. L. 115–174, set out as a note under section 5365 of this title.

§ 5365. Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies

(a) In general

(1) Purpose

In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected financial institutions, the Board of Governors shall, on its own or pursuant to recommendations by the Council under section 5325 of this title, establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies with total consolidated assets equal to or greater than $250,000,000,000 that—

(A) are more stringent than the standards and requirements applicable to nonbank financial companies and bank holding companies that do not present similar risks to the financial stability of the United States; and

(B) increase in stringency, based on the considerations identified in subsection (b)(3).

(2) Tailored application

(A) In general

In prescribing more stringent prudential standards under this section, the Board of Governors shall, on its own or pursuant to a recommendation by the Council in accordance with section 5325 of this title, differentiate among companies on an individual basis or by category, taking into consideration their capital structure, riskiness, complexity, financial activities (including the financial activities of their subsidiaries), size, and any other risk-related factors that the Board of Governors deems appropriate.

(B) Adjustment of threshold for application of certain standards

The Board of Governors may, pursuant to a recommendation by the Council in accordance with section 5325 of this title, establish an asset threshold above the applicable threshold for the application of any standard established under subsections (c) through (g).

(C) Risks to financial stability and safety and soundness

The Board of Governors may by order or rule promulgated pursuant to section 553 of title 5 apply any prudential standard established under this section to any bank holding company or bank holding companies with total consolidated assets equal to or greater than $100,000,000,000 to which the prudential standard does not otherwise apply provided that the Board of Governors—

(i) determines that application of the prudential standard is appropriate—

(I) to prevent or mitigate risks to the financial stability of the United States, as described in paragraph (1); or

(II) to promote the safety and soundness of the bank holding company or bank holding companies; and

(ii) takes into consideration the bank holding company's or bank holding companies' capital structure, riskiness, complexity, financial activities (including financial activities of subsidiaries), size, and any other risk-related factors that the Board of Governors deems appropriate.

(b) Development of prudential standards

(1) In general

(A) Required standards

The Board of Governors shall establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that shall include—

(i) risk-based capital requirements and leverage limits, unless the Board of Governors, in consultation with the Council, determines that such requirements are not appropriate for a company subject to more stringent prudential standards because of the activities of such company (such as investment company activities or assets under management) or structure, in which case, the Board of Governors shall apply other standards that result in similarly stringent risk controls;

(ii) liquidity requirements;

(iii) overall risk management requirements;

(iv) resolution plan requirements; and

(v) concentration limits.

(B) Additional standards authorized

The Board of Governors may establish additional prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that include—

(i) a contingent capital requirement;

(ii) enhanced public disclosures, including credit exposure reports;

(iii) short-term debt limits; and

(iv) such other prudential standards as the Board or Governors, on its own or pursuant to a recommendation made by the Council in accordance with section 5325 of this title, determines are appropriate.