

consultations among finance ministers and the managing director of the Fund on the conditions for improving the international monetary system; and

“(7) establishing collection, review, comment, and reporting procedures within the Fund as provided in section 42 of this Act.”.

Ante, p. 1269.

International
Lending Super-
vision Act of
1983.

12 USC 3901
note.

TITLE IX—INTERNATIONAL LENDING SUPERVISION

SHORT TITLE

SEC. 901. This title may be cited as the “International Lending Supervision Act of 1983”.

DECLARATION OF POLICY

12 USC 3901.

SEC. 902. (a)(1) It is the policy of the Congress to assure that the economic health and stability of the United States and the other nations of the world shall not be adversely affected or threatened in the future by imprudent lending practices or inadequate supervision.

(2) This shall be achieved by strengthening the bank regulatory framework to encourage prudent private decisionmaking and by enhancing international coordination among bank regulatory authorities.

(b) The Federal banking agencies shall consult with the banking supervisory authorities of other countries to reach understandings aimed at achieving the adoption of effective and consistent supervisory policies and practices with respect to international lending.

DEFINITIONS

12 USC 3902.

SEC. 903. For purposes of this title—

12 USC 1813.

(1) the term “appropriate Federal banking agency” has the same meaning given such term in section 3(q) of the Federal Deposit Insurance Act, except that for purposes of this title such term means the Board of Governors of the Federal Reserve System for—

(A) bank holding companies and any nonbank subsidiary thereof;

12 USC 611–631.

(B) Edge Act corporations organized under section 25(a) of the Federal Reserve Act; and

12 USC
601–604a.

(C) Agreement Corporations operating under section 25 of the Federal Reserve Act; and

(2) the term “banking institution” means—

12 USC 1813.

(A)(i) an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act or any subsidiary of an insured bank;

(ii) an Edge Act corporation organized under section 25(a) of the Federal Reserve Act; and

(iii) an Agreement Corporation operating under section 25 of the Federal Reserve Act; and

(B) to the extent determined by the appropriate Federal banking agency, any agency or branch of a foreign bank, and any commercial lending company owned or controlled by one or more foreign banks or companies that control a foreign bank as those terms are defined in the Interna-

tional Banking Act of 1978. The term "banking institution" shall not include a foreign bank.

12 USC 3101
note.

STRENGTHENED SUPERVISION OF INTERNATIONAL LENDING

SEC. 904. (a) Each appropriate Federal banking agency shall evaluate banking institution foreign country exposure and transfer risk for use in banking institution examination and supervision.

12 USC 3903.

(b) Each such agency shall establish examination and supervisory procedures to assure that factors such as foreign country exposure and transfer risk are taken into account in evaluating the adequacy of the capital of banking institutions.

RESERVES

SEC. 905. (a)(1) Each appropriate Federal banking agency shall require a banking institution to establish and maintain a special reserve whenever, in the judgment of such appropriate Federal banking agency—

12 USC 3904.

(A) the quality of such banking institution's assets has been impaired by a protracted inability of public or private borrowers in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as—

(i) a failure by such public or private borrowers to make full interest payments on external indebtedness;

(ii) a failure to comply with the terms of any restructured indebtedness; or

(iii) a failure by the foreign country to comply with any International Monetary Fund or other suitable adjustment program; or

(B) no definite prospects exist for the orderly restoration of debt service.

(2) Such reserves shall be charged against current income and shall not be considered as part of capital and surplus or allowances for possible loan losses for regulatory, supervisory, or disclosure purposes.

(b) The appropriate Federal banking agencies shall analyze the results of foreign loan rescheduling negotiations, assess the loan loss risk reflected in rescheduling agreements, and, using the powers set forth in section 908 (regarding capital adequacy), ensure that the capital and reserve positions of United States banks are adequate to accommodate potential losses on their foreign loans.

Post, p. 1280.

(c) The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this section within one hundred and twenty days after the date of the enactment of this title.

Regulations.

ACCOUNTING FOR FEES ON INTERNATIONAL LOANS

SEC. 906. (a)(1) In order to avoid excessive debt service burdens on debtor countries, no banking institution shall charge, in connection with the restructuring of an international loan, any fee exceeding the administrative cost of the restructuring unless it amortizes such fee over the effective life of each such loan.

12 USC 3905.

(2)(A) Each appropriate Federal banking agency shall promulgate such regulations as are necessary to further carry out the provisions of this subsection.

- Regulations. (B) The requirement of paragraph (1) shall take effect on the date of the enactment of this section.
- (b)(1) Subject to subsection (a), the appropriate Federal banking agencies shall promulgate regulations for accounting for agency, commitment, management and other fees charged by a banking institution in connection with an international loan.
- (2) Such regulations shall establish the accounting treatment of such fees for regulatory, supervisory, and disclosure purposes to assure that the appropriate portion of such fees is accrued in income over the effective life of each such loan.
- (3) The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this subsection within one hundred and twenty days after the date of the enactment of this title.

COLLECTION AND DISCLOSURE OF CERTAIN INTERNATIONAL LENDING DATA

- 12 USC 3906. SEC. 907. (a) Each appropriate Federal banking agency shall require, by regulation, each banking institution with foreign country exposure to submit, no fewer than four times each calendar year, information regarding such exposure in a format prescribed by such regulations.
- (b) Each appropriate Federal banking agency shall require, by regulation, banking institutions to disclose to the public information regarding material foreign country exposure in relation to assets and to capital.
- Regulations. (c) The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this section within one hundred and twenty days after the date of the enactment of this title.

CAPITAL ADEQUACY

- 12 USC 3907. SEC. 908. (a)(1) Each appropriate Federal banking agency shall cause banking institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such banking institutions and by using such other methods as the appropriate Federal banking agency deems appropriate.
- (2) Each appropriate Federal banking agency shall have the authority to establish such minimum level of capital for a banking institution as the appropriate Federal banking agency, in its discretion, deems to be necessary or appropriate in light of the particular circumstances of the banking institution.
- Failure to maintain minimum level. (b)(1) Failure of a banking institution to maintain capital at or above its minimum level as established pursuant to subsection (a) may be deemed by the appropriate Federal banking agency, in its discretion, to constitute an unsafe and unsound practice within the meaning of section 8 of the Federal Deposit Insurance Act.
- 12 USC 1818. Directive. (2)(A) In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the appropriate Federal banking agency may issue a directive to a banking institution that fails to maintain capital at or above its required level as established pursuant to subsection (a).
- (B)(i) Such directive may require the banking institution to submit and adhere to a plan acceptable to the appropriate Federal banking

agency describing the means and timing by which the banking institution shall achieve its required capital level.

(ii) Any such directive issued pursuant to this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of section 8(i) of the Federal Deposit Insurance Act to the same extent as an effective and outstanding order issued pursuant to section 8(b) of the Federal Deposit Insurance Act which has become final.

12 USC 1818.

(3)(A) Each appropriate Federal banking agency may consider such banking institution's progress in adhering to any plan required under this subsection whenever such banking institution, or an affiliate thereof, or the holding company which controls such banking institution, seeks the requisite approval of such appropriate Federal banking agency for any proposal which would divert earnings, diminish capital, or otherwise impede such banking institution's progress in achieving its minimum capital level.

(B) Such appropriate Federal banking agency may deny such approval where it determines that such proposal would adversely affect the ability of the banking institution to comply with such plan.

(C) The Chairman of the Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall encourage governments, central banks, and regulatory authorities of other major banking countries to work toward maintaining and, where appropriate, strengthening the capital bases of banking institutions involved in international lending.

FOREIGN LOAN EVALUATIONS

SEC. 909. (a)(1) In any case in which one or more banking institutions extend credit, whether by loan, lease, guarantee, or otherwise, which individually or in the aggregate exceeds \$20,000,000, to finance any project which has as a major objective the construction or operation of any mining operation, any metal or mineral primary processing operation, any fabricating facility or operation, or any metal-making operations (semi and finished) located outside the United States or its territories and possessions, a written economic feasibility evaluation of such foreign project shall be prepared and approved in writing by a senior official of the banking institution, or, if more than one banking institution is involved, the lead banking institution, prior to the extension of such credit.

12 USC 3908.

(2) Such evaluation shall—

(A) take into account the profit potential of the project, the impact of the project on world markets, the inherent competitive advantages and disadvantages of the project over the entire life of the project, and the likely effect of the project upon the overall long-term economic development of the country in which the project is located; and

(B) consider whether the extension of credit can reasonably be expected to be repaid from revenues generated by such foreign project without regard to any subsidy, as defined in international agreements, provided by the government involved or any instrumentality of any country.

(b) Such economic feasibility evaluations shall be reviewed by representatives of the appropriate Federal banking agencies whenever an examination by such appropriate Federal banking agency is conducted.

Review.

12 USC 1818. (c)(1) The authorities of the Federal banking agencies contained in section 8 of the Federal Deposit Insurance Act and in section 910 of this Act, except those contained in section 910(d), shall be applicable to this section.

(2) No private right of action or claim for relief may be predicated upon this section.

GENERAL AUTHORITIES

Regulations or orders.
12 USC 3909.

SEC. 910. (a)(1) The appropriate Federal banking agencies are authorized to interpret and define the terms used in this title, and each appropriate Federal banking agency shall prescribe rules or regulations or issue orders as necessary to effectuate the purposes of this title and to prevent evasions thereof.

(2) The appropriate Federal banking agency is authorized to apply the provisions of this title to any affiliate of an insured bank, but only to affiliates for which it is the appropriate Federal banking agency, in order to promote uniform application of this title or to prevent evasions thereof.

12 USC 371c.

(3) For purposes of this section, the term "affiliate" shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term "member bank" in such section shall be deemed to refer to an "insured bank", as such term is used in section 3(h) of the Federal Deposit Insurance Act.

12 USC 1813.

(b) The appropriate Federal banking agencies shall establish uniform systems to implement the authorities provided under this title.

Supplemental powers or authorities.

(c)(1) The powers and authorities granted in this title shall be supplemental to and shall not be deemed in any manner to derogate from or restrict the authority of each appropriate Federal banking agency under section 8 of the Federal Deposit Insurance Act or any other law including the authority to require additional capital or reserves.

12 USC 1818.

(2) Any such authority may be used by any appropriate Federal banking agency to ensure compliance by a banking institution with the provisions of this title and all rules, regulations, or orders issued pursuant thereto.

Violations.

(d)(1) Any banking institution which violates, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such banking institution, who violates any provision of this title, or any rule, regulation, or order, issued under this title, shall forfeit and pay a civil penalty of not more than \$1,000 per day for each day during which such violation continues.

12 USC 1818.

(2) Such violations shall be deemed to be a violation of a final order under section 8(i)(2) of the Federal Deposit Insurance Act and the penalty shall be assessed and collected by the appropriate Federal banking agency under the procedures established by, and subject to the rights afforded to parties in, such section.

GAO AUDIT AUTHORITY

12 USC 3910.

SEC. 911. (a)(1) Under regulations of the Comptroller General, the Comptroller General shall audit the appropriate Federal banking agencies (as defined in section 903 of this title), but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate Federal banking agency has consented in writing.

Ante, p. 1278.

Audit inclusions.

(2) An audit under this subsection may include a review or evaluation of the international regulation, supervision, and exami-

nation activities of the appropriate Federal banking agency, including the coordination of such activities with similar activities of regulatory authorities of a foreign government or international organization.

(3) Audits of the Federal Reserve Board and Federal Reserve banks may not include—

Federal Reserve Board and bank audits, exclusions.

(A) transactions for, or with, a foreign central bank, government of a foreign country, or nonprivate international financing organization;

(B) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, or open market operations;

(C) transactions made under the direction of the Federal Open Market Committee; or

(D) a part of a discussion or communication among or between members of the Board of Governors of the Federal Reserve System and officers and employees of the Federal Reserve System related to subparagraphs (A) through (C) of this paragraph.

(b)(1)(A) Except as provided in this subsection, an officer or employee of the General Accounting Office may not disclose information identifying an open bank, an open bank holding company, or a customer of an open or closed bank or bank holding company.

Information disclosure.

(B) The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the General Accounting Office may discuss a customer, bank, or bank holding company with an official of an appropriate Federal banking agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

Reporting criminal violations.

(3) This subsection does not authorize an officer or employee of an appropriate Federal banking agency to withhold information from a committee of the Congress authorized to have the information.

Information withholding from Congress.

(c)(1)(A) To carry out this section, all records and property of or used by an appropriate Federal banking agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller General, including such records and property pertaining to the coordination of international regulation, supervisor and examination activities of an appropriate Federal banking agency.

Records and property.

(B) The Comptroller General shall give each appropriate Federal banking agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit.

(C) Each appropriate Federal banking agency shall give the Comptroller General suitable and lockable offices and furniture, telephones, and access to copying facilities.

(2) Except for the temporary removal of workpapers of the Comptroller General that do not identify a customer of an open or closed bank or bank holding company, an open bank, or an open bank holding company, all workpapers of the Comptroller General and records and property of or used by an appropriate Federal banking agency that the Comptroller General possesses during an audit, shall remain in such agency. The Comptroller General shall prevent unauthorized access to records or property.

EQUAL REPRESENTATION FOR THE FEDERAL DEPOSIT INSURANCE CORPORATION

12 USC 3911.

SEC. 912. As one of the three Federal bank regulatory and supervisory agencies, and as the insurer of the United States banks involved in international lending, the Federal Deposit Insurance Corporation shall be given equal representation with the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.

REPORTS

Transmittal to Congress.
12 USC 3912.

SEC. 913. Not later than six months after the date of the enactment of this title, the Secretary of the Treasury or the appropriate Federal banking agencies as specified below, shall transmit a report to the Congress regarding changes to improve the international lending operations of banking institutions. Such report shall—

(1) review the laws, regulations, and examination and supervisory procedures and practices, governing international banking in each of the Group of Ten Nations and Switzerland with particular attention to such matters bearing on capital requirements, lending limits, reserves, disclosure, examiner access, and lender of last resort resources, such report to be prepared by the Chairman of the Board of Governors of the Federal Reserve System;

Ante, p. 1280.

(2) outline progress made in reaching the goal specified in section 908(c), such report to be prepared by the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System; and

(3) indicate actions taken to implement this title by the appropriate Federal banking agencies, including a description of the actions taken in carrying out the objectives of the title and any actions taken by any appropriate Federal banking agency that are inconsistent with the uniform implementation by the appropriate Federal banking agencies of their respective authorities under this title, and any recommendations for amendments to this or other legislation, such report to be prepared by the appropriate Federal banking agencies.

TITLE X—MULTILATERAL DEVELOPMENT BANKS

INTER-AMERICAN DEVELOPMENT BANK

22 USC 283z-3.

SEC. 1001. The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding at the end thereof the following:

"SEC. 31. (a)(1) The United States Governor of the Bank is authorized to vote for resolutions—