

“satisfactory record of meeting community credit needs” at its most recent examination under section 2903 of this title; and

(3) as deemed necessary by the appropriate Federal financial supervisory agency, for an institution that has received a rating of less than “satisfactory record of meeting community credit needs” at its most recent examination under section 2903 of this title.

(b) No exception from CRA examinations in connection with applications for deposit facilities

A regulated financial institution described in subsection (a) shall remain subject to examination under this chapter in connection with an application for a deposit facility.

(c) Discretion

A regulated financial institution described in subsection (a) may be subject to more frequent or less frequent examinations for reasonable cause under such circumstances as may be determined by the appropriate Federal financial supervisory agency.

(Pub. L. 95-128, title VIII, § 809, as added Pub. L. 106-102, title VII, § 712, Nov. 12, 1999, 113 Stat. 1469.)

CHAPTER 31—NATIONAL CONSUMER COOPERATIVE BANK

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§ 3001. Congressional statement of findings and purpose

The economic and financial structure of this country in combination with the Nation's natural resources and the productivity of the American people has produced one of the highest average standards of living in the world. However, the Nation has been experiencing inflation and unemployment together with an increasing gap between producers' prices and consumers' purchasing power. This has resulted in a growing number of our citizens, especially the elderly, the poor, and the inner city resident, being unable to share in the fruits of our Nation's highly efficient economic system. The Congress finds that user-owned cooperatives are a proven method for broadening ownership and control of the economic organizations, increasing the number of market participants, narrowing price spreads, raising the quality of goods and services available to their membership, and building bridges between producers and consumers, and their members and patrons. The Congress also finds that consumer and other types of self-help cooperatives have been hampered in their formation and growth by lack of access to adequate cooperative credit facilities and lack of technical assistance. Therefore, the Congress finds a need for the establishment of a National Consumer Cooperative Bank which will make available necessary financial and technical assistance to cooperative self-help endeavors as a means of strengthening the Nation's economy.

(Pub. L. 95-351, § 2, Aug. 20, 1978, 92 Stat. 499.)

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-206, § 1, Dec. 7, 1989, 103 Stat. 1832, provided that: “This Act [amending section 3014 of this title] may be cited as the ‘National Consumer Cooperative Bank Amendments of 1989’.”

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97-35, title III, § 390, Aug. 13, 1981, 95 Stat. 433, provided that: “This subtitle [subtitle C (§§ 390-396) of title III of Pub. L. 97-35, enacting sections 3017a, 3026, and 3051 of this title; amending sections 3011 to 3015, 3017, 3018, 3019, 3024, 3025, 3042, and 3043 of this title, section 5315 of Title 5, Government Organization and Employees, and sections 856, 867, and 868 of former Title 31, Money and Finance; and enacting provisions set out as notes under sections 3011 to 3015, 3017, 3017a, 3019, 3025, and 3026 of this title] may be cited as the ‘National Consumer Cooperative Bank Act Amendments of 1981’.”

SHORT TITLE

Pub. L. 95-351, § 1, Aug. 20, 1978, 92 Stat. 499, provided: “That this Act [enacting this chapter and amending

section 5315 of Title 5, Government Organization and Employees, and sections 856, 867, and 868 of former Title 31, Money and Finance] may be cited as the 'National Consumer Cooperative Bank Act'."

SUBCHAPTER I—ESTABLISHMENT AND OPERATION

§ 3011. Creation and charter; principal office; venue; purposes

The Congress of the United States hereby creates and charters a body corporate to be known as the National Consumer Cooperative Bank (hereinafter in this chapter referred to as the "Bank"). The Bank shall have perpetual existence unless and until its charter is revoked or modified by Act of Congress. The right to revise, amend, or modify the charter of the Bank is specifically and exclusively reserved to the Congress. The principal office of the Bank shall be in Washington, District of Columbia, and, for the purpose of venue, shall be considered a resident thereof. It shall make loans and offer its services throughout the United States, its territories and possessions, and in the Commonwealth of Puerto Rico. The Bank shall—

- (1) encourage the development of new and existing cooperatives eligible for its assistance by providing specialized credit and technical assistance;
- (2) maintain broad-based control of the Bank by its voting stockholders;
- (3) encourage broad-based ownership, control, and active participation by members in eligible cooperatives;
- (4) assist in improving the quality and availability of goods and services to consumers; and
- (5) encourage ownership of its equity securities by cooperatives and others as provided in section 3014 of this title, so that the date when all of the Bank's class A stock owned by the United States has been fully redeemed (the "Final Government Equity Redemption Date") occurs as early as practicable.

(Pub. L. 95-351, title I, §101, Aug. 20, 1978, 92 Stat. 499; Pub. L. 97-35, title III, §396(b), Aug. 13, 1981, 95 Stat. 439.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 95-351, Aug. 20, 1978, 92 Stat. 499, known as the National Consumer Cooperative Bank Act, which enacted this chapter, amended section 5315 of Title 5, Government Organization and Employees, and sections 856, 867, and 868 of former Title 31, Money and Finance, and enacted provisions set out as a note under section 3001 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97-35 substituted provisions respecting creation, and denomination of the National Consumer Cooperative Bank, for provisions respecting creation, denomination, and status of the National Consumer Cooperative Bank.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §396(i), Aug. 13, 1981, 95 Stat. 441, provided that: "The amendments made by sub-

sections (b) through (h) [amending this section, sections 3014, 3017, 3018, 3024, and 3043 of this title, section 5315 of Title 5, Government Organization and Employees, and sections 856, 867, and 868 of former Title 31, Money and Finance] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981]." For definition of "Final Government Equity Redemption Date", see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

FINAL GOVERNMENT EQUITY REDEMPTION DATE ESTABLISHED

For establishment of Final Government Equity Redemption Date as Dec. 31, 1981, see section 3026 of this title and notes set out under that section.

§ 3012. General corporate powers

The Bank shall have the power to make and service loans, commitments for credit, guarantees, furnish financially related services, technical assistance and the results of research, issue its obligations within the limitations imposed by section 3017 of this title in such amounts, at such times, and on such terms as the Bank may determine, and to exercise the other powers and duties prescribed in this chapter, and shall have the power to—

- (1) operate under the direction of its Board of Directors;
- (2) adopt, alter, and use a corporate seal, which shall be judicially noted;
- (3) elect by its Board of Directors a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, and define their duties in accordance with regulations and standards adopted by the Board, and require surety bonds or make other provisions against losses occasioned by acts of employees;

(4) prescribe by its Board of Directors its by-laws not inconsistent with law, which shall establish the terms of office and the procedure for election of elective members; provide in a manner not inconsistent with this chapter for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; and prescribe the manner in which its officers, employees, and agents are elected or selected, its property acquired, held and transferred, its loans, commitments, other financial assistance, guarantees and appraisals may be made, its general business conducted, and the privilege granted it by law exercised and enjoyed;

(5) enter into contracts and make advance, progress, or other payments with respect to such contracts, without regard to the provisions of section 3324(a) and (b) of title 31;

(6) sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal;

(7) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property and sell or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary or convenient to its business: *Provided*, That any such acquisition or ownership of real property shall not deprive a State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair

the civil rights of the inhabitants of such property under Federal, State, or local laws;

(8) obtain insurance against loss in connection with property and other assets;

(9) modify or consent to the modification with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or has an interest pursuant to this chapter;

(10) utilize and act through any Federal, State, or local public agency or instrumentality, or private agency or organization, with the consent of the agency or organization concerned, and contract with such agency, instrumentality, or organization for furnishing or receiving technical services and benefits of research, services, funds or facilities; and make advance, progress, or other payments with respect to such contracts without regard to section 3324(a) and (b) of title 31;

(11) within the limitations of section 3017 of this title, borrow money and issue notes, bonds and debentures or other obligations individually or in concert with other financial institutions, agencies or instrumentalities, of such character and such terms and conditions and at rates of interest as may be determined;

(12) issue certificates of indebtedness to its stockholders or members and pay interest on funds left with the Bank, and accept grants or interest free temporary use of funds made available to it;

(13) participate with one or more other financial institutions, agencies, instrumentalities, or foundations in loans or guarantees under this chapter on terms as may be agreed upon;

(14) accept guarantees from other agencies for which loans made by the Bank may be eligible;

(15) establish one or more branch offices and one or more advisory councils in connection with any such branch offices, as may from time to time be authorized by the Board of Directors;

(16) buy and sell obligations of, or insured by, the United States or any agency or instrumentalities thereof, or securities backed by the full faith and credit of any such agency or instrumentality and, after the final Government Equity Redemption Date, make such other investments as may be authorized by the Board of Directors;

(17) approve the salary scale of officers and employees of the Bank, in accordance with regulations and standards adopted by the Board of Directors, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, but, except as otherwise provided in this chapter, the General Schedule pay rates shall be applicable until all class A stock held by the Secretary of the Treasury has been retired; and

(18) have such other incidental powers as may be necessary or expedient to carry out its duties under this chapter.

In determining whether a public offering is taking place for the purpose of the Securities Act of 1933 [15 U.S.C. 77a et seq.], there shall be ex-

cluded from consideration all class B and class C stock purchases which took place prior to August 13, 1981.

(Pub. L. 95-351, title I, §102, Aug. 20, 1978, 92 Stat. 500; Pub. L. 97-35, title III, §394(d)(1), Aug. 13, 1981, 95 Stat. 436.)

Editorial Notes

REFERENCES IN TEXT

The Securities Act of 1933, referred to in text, is act May 27, 1933, ch. 38, title I, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

CODIFICATION

In pars. (5) and (10), “section 3324(a) and (b) of title 31” substituted for “section 3648 of the Revised Statutes [31 U.S.C. 529]” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1981—Pub. L. 97-35 substituted provisions relating to a public offering for purposes of the Securities Act of 1933, for provisions setting forth criteria for the term “exempt securities”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §394(d)(2), Aug. 13, 1981, 95 Stat. 436, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981].” See section 396(a) of Pub. L. 97-35 set out below.

“FINAL GOVERNMENT EQUITY REDEMPTION DATE” DEFINED

Pub. L. 97-35, title III, §396(a), Aug. 13, 1981, 95 Stat. 439, provided that: “For purposes of this subtitle [see Short Title of 1981 Amendment note set out under section 3001 of this title], the term ‘Final Government Equity Redemption Date’ shall have the same meaning given such term in section 101(5) of the National Consumer Cooperative Bank Act (12 U.S.C. 3011(5)).”

§ 3013. Board of Directors

(a) Composition; term of office; removal by President

The Bank shall be governed by a Board of Directors (hereinafter in this chapter referred to as the “Board”) which shall consist of 15 members. All members shall serve for a term of 3 years. After the expiration of the term of any member, such member may continue to serve until his successor has been elected or has been appointed and qualified. Any member appointed by the President may be removed for cause by the President.

(b) Appointment by President; election by stockholders

(1) The President shall appoint, by and with the advice and consent of the Senate—

(A) one member who shall be selected from among proprietors of small business concerns, as defined under section 632 of title 15, which are manufacturers or retailers;

(B) one member who shall be selected from among the officers of the agencies and departments of the United States; and

(C) one member who shall be selected from among persons having extensive experience in the cooperative field representing low-income cooperatives eligible to borrow from the Bank.

(2) Twelve members of the Board shall be elected by the holders of class B stock and class C stock in accordance with the provisions of subsection (d) and the bylaws of the Bank.

(c) Resignations; continuances; completion of term; committee representation

(1) On the day after the Final Government Equity Redemption Date, all members of the Board of Directors of the Bank who were appointed by the President shall resign, except that—

(A) the member who shall have been appointed by the President from among proprietors of small business concerns, and

(B) one member who shall be designated by the President and who shall have been appointed by the President from among the officers and employees of the agencies and departments of the United States Government,

may continue to serve until their successors have been appointed and qualified.

(2) Any member of the Board of Directors of the Bank who was elected by the holders of class B or class C stock before the Final Government Equity Redemption Date shall serve the remainder of the term for which such member was elected.

(3) Any member appointed pursuant to subsection (b)(1) shall be entitled to sit on any committee of the Board, but not more than one member so appointed may sit on any one committee.

(d) Elections; nominations by cooperative classes; vacancies filled; representation requirements

(1) All elections of members of the Board by the holders of class B stock and class C stock shall be conducted in accordance with the bylaws of the Bank. Such bylaws shall conform to the requirements of this section. Nominations for such elections shall be made by the following classes of cooperatives: (A) housing, (B) consumer goods, (C) low-income cooperatives, (D) consumer services, and (E) all other eligible cooperatives.

(2)(A) Vacant shareholder directorships shall be filled so that at any time when there are three or more shareholder directors on the Board, there shall be at least one director representing each of the following classes of cooperatives: (i) housing cooperatives, (ii) low-income cooperatives, and (iii) consumer goods and services cooperatives.

(B) Each nominee for a shareholder directorship of a particular class shall have at least three years experience as a director or senior officer in the class of cooperatives to be represented.

(C) No one class of cooperatives specified in paragraph (1) shall be represented on the Board by more than three directors.

(e) Terms; officer of Bank not to serve as director; notice requirements of Bank and voting shareholders

No director shall be eligible to be elected for more than two consecutive full three-year

terms. No officer of the Bank shall be eligible to serve simultaneously as a director on the Board of the Bank. The Bank shall give adequate advance notice to all voting stockholders of nominees and of the procedures for nominating other candidates. Each voting stockholder shall make the information required in this paragraph available to its members.

(f) Annual election of chairman and vice chairman and selection of secretary; eligibility; establishment of Bank policies and direction of management

The Board shall annually elect from among its members a chairman and vice chairman and select a secretary who need not be a member. The Board shall establish the policies of the Bank governing its funding, lending, and other financial and technical assistance, and shall direct the management of the Bank.

(g) Conduct of meetings; rules governing

The Board shall meet at least quarterly. Its meeting shall be open to members or representatives of all eligible cooperatives and other eligible organizations, as observers only, and to persons or representatives of groups who identify their interest in the Bank and who are invited to attend a meeting, subject to such rules as the Board may establish for the conduct of such meetings. Those rules shall include the manner of giving notice of meetings, the procedure for the conduct of meetings, the manner of submitting topics for the agenda, the allocation of time of presentations, and debate. The chairman, when sustained by the majority of the Board present, may adjourn the open meeting into an executive session on motion of the chairman, any Board member, or at the request of any applicant, borrower, officer, or employee when the matter under discussion involves an application, a loan, a personnel action, or other matter which might tend to impinge on the right of privacy of any person.

(h) Compensation and expenses

Members of the Board appointed by the President from among the officers of the agencies and departments of the United States Government shall not receive any additional compensation by virtue of their service on the Board. The member of the Board appointed from among proprietors of small business and the member of the Board appointed pursuant to subsection (b)(1)(C) shall (1) receive compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 for each day that they are engaged in the performance of their duties on the Board, and (2) be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b)¹ of title 5 for each day that they are away from their homes or regular places of business in the performance of their duties on the Board. The members of the Board who are elected by the holders of class B stock and class C stock shall be compensated in accordance with the bylaws of the Bank. All compensation and expenses paid

¹ See References in Text note below.

to the members of the Board of Directors shall be paid by the Bank.

(Pub. L. 95-351, title I, §103, Aug. 20, 1978, 92 Stat. 502; Pub. L. 96-149, Dec. 16, 1979, 93 Stat. 1089; Pub. L. 97-35, title III, §393(a), (b), Aug. 13, 1981, 95 Stat. 435, 436.)

Editorial Notes

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (h), was amended generally by Pub. L. 94-22, §4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35, §393(a), substituted provisions relating to composition, term of office, and removal by the President, for provisions relating to composition, appointment, eligibility, removal, and vacancies.

Subsec. (b). Pub. L. 97-35, §393(a), substituted provisions relating to appointment by the President, and election by the stockholders, for provisions relating to resignation and termination of terms of Presidential appointees, shareholder directorships, resignation of remaining Presidential appointees on Final Government Equity Redemption Date, and continuation of Presidential appointment power.

Subsec. (c). Pub. L. 97-35, §393(a), substituted provisions relating to resignations, continuances, completion of term, and committee representation, for provisions relating to nominating criteria for appointment or election, and representational limitations.

Subsec. (d). Pub. L. 97-35, §393(a), substituted provisions relating to nominations by cooperative classes, vacancies, and representational requirements for elections, for provisions relating to rules governing election of successors to resigned Presidential appointees and successors to shareholder directors.

Subsec. (h). Pub. L. 97-35, §393(b), inserted provisions relating to compensation of members elected by holders of class B and C stock, and provisions relating to payment of compensation and expenses by the Bank, and substituted provisions relating to members appointed under subsec. (b)(1)(C) of this section, for provisions relating to Final Government Equity Redemption Date, and members elected by holders of class B and C stock.

1979—Subsec. (a). Pub. L. 96-149, §1(a), inserted provisions respecting appointment of a member from among proprietors of small business concerns, and substituted “fifteen” for “thirteen”, “eight” for “seven”, and “this section” for “this section 104”, which for purposes of codification had been editorially translated as “section 3014 of this title”.

Subsec. (b). Pub. L. 96-149, §1(b), substituted provisions respecting criteria for resignations of initial two additional Board members and the additional Board member, for provisions respecting criteria for resignation of an additional Board member, and substituted “Five of the” for “Five”.

Subsec. (d). Pub. L. 96-149, §1(c), substituted “five of the” for “all five”.

Subsec. (h). Pub. L. 96-149, §1(d), inserted provisions relating to Board member appointed from among proprietors of small businesses.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §393(c), Aug. 13, 1981, 95 Stat. 436, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981].” For definition of “Final Government Equity Redemption Date”, see sec-

tion 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 3014. Capitalization

(a) Subscriptions for capital; authorization of appropriations

The capital of the Bank shall consist of capital subscribed by borrowers from the Bank, by cooperatives eligible to become borrowers, by organizations owned and controlled by such borrowers, by foundations, trust or charitable funds, by public bodies, by other public or private investors, and by the United States. There are authorized to be appropriated not to exceed \$47,000,000 for fiscal year 1982 for purposes of purchasing class A stock.

(b) Classes of stock; general requirements respecting rights, powers, privileges, and preferences

The capital stock of the Bank shall include class B and class C stock and such other classes with such rights, powers, privileges, and preferences of the separate classes as may be specified, not inconsistent with law, in the bylaws of the Bank. Class A notes which are held by the United States shall have first preference with respect to assets and interest payments over all classes of stock issued by the Bank. So long as any class A notes are outstanding, the Bank shall not pay any dividend on any class of stock at a rate greater than the statutory interest rate payable on class A notes. Class B and class C stock shall be common stock with voting rights as provided for herein and shall be issued only to eligible borrowers and organizations controlled by such borrowers or organizations eligible to borrow, and shall be transferable only on the books of the Bank and then only to another eligible borrower. No holder of voting stock of the Bank shall be entitled to more than one vote regardless of the number of shares of stock of other classes held, except as provided in subsection (g) of this section.

(c) Class A notes; interest payments; redemption, etc.

The holder of class A notes shall be entitled to interest at a rate or rates determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable terms and conditions as of the last day of the month preceding each issuance of such class A notes to the Secretary of the Treasury, except that, until October 1, 1990, interest payments shall not exceed 25 percent of gross revenues for the year, less necessary operating expenses including a reserve for possible losses. From time to time, the Bank may, with the approval of the Secretary of the Treasury and consistent with the terms of this chapter, issue re-

placement class A notes upon terms and conditions to be agreed upon by the Bank and the Secretary, bearing interest as provided in this subsection, in substitution for those class A notes previously issued. Any such interest payment may be deferred by the Board of Directors with the approval of the Secretary of the Treasury, except that any interest payment so deferred shall bear interest at a rate equal to the rate determined pursuant to the first sentence of this subsection. Without the approval of the Secretary of the Treasury, the Bank shall not pay any dividend or distribution on, or make any redemption or repurchase of, any class of stock at any time when the deferred interest payments on class A notes shall not have been paid in full, together with any unpaid interest on such notes. Upon any liquidation or dissolution of the Bank, the holder of class A notes shall be entitled to receive out of the assets of the Bank available for distribution to its stockholders, prior to any payment to the holders of any class of stock of the Bank, an amount not less than the aggregate face value of all class A notes outstanding, plus all accrued and unpaid interest payments accrued thereon to and including the date of payment (together with all unpaid interest thereon). The class A notes shall be redeemed and retired as soon as practicable consistent with the purposes of this chapter (such redemption to be at a price equal to the face value of the class A notes so redeemed plus interest payments accrued thereon to the date of redemption), except that beginning on October 1, 1990, there shall be redeemed as a minimum with respect to each fiscal year a number of class A notes having an aggregate face value equal to the aggregate consideration received by the Bank for the issue of its class B and class C stock during that fiscal year. Each such redemption shall take place not later than ninety days after the close of each fiscal year. All class A notes shall be redeemed by the Bank no later than October 31, 2020.

(d) Class B stock; ownership requirements, etc.

Class B stock shall be held only by recipients of loans under section 3015 of this title, and such borrowers shall be required to own class B stock in an amount not less than 1 per centum of the face amount of the loan at the time the loan is made. Such borrowers may be required by the Bank to own additional class B or class C stock at the time the loan is made, but not to exceed an amount equal to 10 per centum of the face amount of the loan, or from time to time, as the Bank may determine. Such additional stock ownership requirements may be on the basis of the face amount of the loan, the outstanding balances, or on a percentage of interest payable during any year or any quarter thereof, as the Bank may determine will provide adequate capital for the operation of the Bank and equitable ownership thereof among borrowers.

(e) Class C stock; purchase, dividends, etc.

Class C stock shall be available for purchase and shall be held only by borrowers or by organizations eligible to borrow under section 3015 of this title or by organizations controlled by such borrowers, and shall be entitled to dividends in the manner specified in the bylaws of the Bank.

Such dividends shall be payable only from income, and, until all class A notes has¹ been retired, the rate of such dividends shall not exceed the rate of the statutory interest payment on class A notes.

(f) Nonvoting stock of other classifications and priorities; issuance, etc.

Nonvoting stock of other classifications and other priorities may be issued at the discretion of the Board, to other investors, except that so long as any class A notes are outstanding, the Board shall not authorize or issue any class of stock, whether voting or nonvoting, that would rank prior or equal to the class A notes as to dividends, interest payments, or upon liquidation or dissolution.

(g) Voting requirements of bylaws

(1) The bylaws of the Bank may provide for more than one vote on the basis of—

(A) the amount of class B stock, class C stock, or both classes held, with such limitations as will encourage investments in class C stock;

(B) the amount of patronage of the Bank; and

(C) number of members in the cooperative.

(2) Such bylaws shall avoid—

(A) voting control of the Bank from becoming concentrated with the larger affluent or smaller less affluent organizations;

(B) a disproportionately larger vote in one or more of the groups of cooperatives referred to in section 3013(d)(2)(A) of this title; and

(C) the concentration of more than 5 per centum of the total voting control in any one class B or class C stockholder.

(h) Acceptance by Bank of nonreturnable capital contributions

The Bank may accept nonreturnable capital contributions on which no interest, dividend, or patronage refund shall be payable from associations, foundations, or funds or public bodies or agencies at the discretion of the Board.

(i) Patronage refunds

After payment of all operating expenses of the Bank, including interest on its obligations, and after setting aside appropriate funds for reserves for losses, for interest payments on class A notes and dividends on class C stock and for any redemption of class A notes in accordance with subsection (c), the Bank shall annually set aside the remaining earnings of the Bank for patronage refunds in the form of class B or C stock or allocated surplus in accordance with the bylaws of the Bank. After ten years from the date of issue of any such stock, or at such earlier time as all the Government-held stock is retired, patronage refunds may be made in cash, or partly in stock and partly in cash.

(Pub. L. 95-351, title I, §104, Aug. 20, 1978, 92 Stat. 503; Pub. L. 97-35, title III, §§394(c)(1), 395(b)(2), 396(c), Aug. 13, 1981, 95 Stat. 436, 439; Pub. L. 101-206, §2, Dec. 7, 1989, 103 Stat. 1832.)

¹ So in original. Probably should be "have".

Editorial Notes**AMENDMENTS**

1989—Subsec. (c). Pub. L. 101-206 substituted “The holder of class A notes shall be entitled to interest at a rate or rates determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable terms and conditions as of the last day of the month preceding each issuance of such class A notes to the Secretary of the Treasury, except that, until October 1, 1990, interest payments shall not exceed 25 percent of gross revenues for the year, less necessary operating expenses including a reserve for possible losses. From time to time, the Bank may, with the approval of the Secretary of the Treasury and consistent with the terms of this chapter, issue replacement class A notes upon terms and conditions to be agreed upon by the Bank and the Secretary, bearing interest as provided in this subsection, in substitution for those class A notes previously issued.” for “The holder of class A notes shall be entitled to interest payments at a rate determined by the Secretary of the Treasury taking into consideration the average market yield, during the month preceding the close of each fiscal year, on outstanding marketable obligations of the United States of comparable maturity, except that until October 1, 1990, such interest payments shall not exceed 25 per centum of gross revenues for the year less necessary operating expenses, including a reserve for possible losses. Such interest payments shall be payable annually into miscellaneous receipts of the Treasury and shall be cumulative.” and inserted at end “All class A notes shall be redeemed by the Bank no later than October 31, 2020.”

1981—Subsec. (a). Pub. L. 97-35, §§394(c)(1), 395(b)(2), inserted “by other public or private investors,” after “public bodies,” and substituted provisions authorizing appropriations for fiscal year 1982, for provisions authorizing appropriations beginning with the fiscal year ending Sept. 30, 1979, and authorizing use of amounts authorized but not appropriated.

Subsec. (b). Pub. L. 97-35, §396(c)(1), substituted “class B” for “class A, class B,” and substituted provisions relating to class A notes, for provisions relating to class A preferred stock.

Subsec. (c). Pub. L. 97-35, §396(c)(2), substituted provisions relating to interest payments, redemption, etc., of class A notes, for provisions relating to issuance, dividends, etc., of class A stock.

Subsec. (e). Pub. L. 97-35, §396(c)(3), substituted provisions relating to class A notes, for provisions relating to class A stock.

Subsec. (f). Pub. L. 97-35, §396(c)(4), substituted provisions relating to class A notes, for provisions relating to class A stock.

Subsec. (g)(2)(B). Pub. L. 97-35, §396(c)(5), substituted “3013(d)(2)(A)” for “3013(c)”.

Subsec. (h). Pub. L. 97-35, §396(c)(6), struck out provision respecting treatment of the Bank as a governmental unit within section 170(b)(1)(A)(v) of title 26.

Subsec. (i). Pub. L. 97-35, §396(c)(7), substituted provisions relating to class A notes, for provisions relating to class A stock.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1981 AMENDMENT**

Pub. L. 97-35, title III, §394(c)(2), Aug. 13, 1981, 95 Stat. 436, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981].” For definition of “Final Government Equity Redemption Date”, see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

Pub. L. 97-35, title III, §395(b)(3), Aug. 13, 1981, 95 Stat. 439, provided that: “The amendments made by paragraphs (1) [amending section 3042 of this title] and

(2) [amending this section] shall take effect on October 1, 1981.”

Amendment by section 396(c) of Pub. L. 97-35 effective on the day after the Final Government Equity Redemption Date (Dec. 31, 1981), see section 396(i) of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 3011 of this title.

§ 3015. Eligibility of cooperatives**(a) General requirements**

For the purpose of all subchapters of this chapter, subject to the limitations of subsection (d) of this section, an eligible cooperative is an organization chartered or operated on a cooperative, not-for-profit basis for producing or furnishing goods, services or facilities, primarily for the benefit of its members or voting stockholders who are ultimate consumers of such goods, services, or facilities, or a legally chartered entity primarily owned and controlled by any such organization or organizations, if it—

(1) makes such goods, services or facilities directly or indirectly available to its members or voting stockholders on a not-for-profit basis;

(2) does not pay dividends on voting stock or membership capital in excess of such percentage per annum as may be approved under the bylaws of the Bank;

(3) provides that its net savings shall be allocated or distributed to all members or patrons, in proportion to their patronage, or shall be retained for the actual or potential expansion of its services or the reduction of its charges to the patrons, or for such other purposes as may be authorized by its membership not inconsistent with its purposes;

(4) makes membership available on a voluntary basis, without any social, political, racial, or religious discrimination and without any discrimination on the basis of age, sex, or marital status, to all persons who can make use of its services and are willing to accept the responsibilities of membership, subject only to limitations under applicable Federal or State laws or regulations;

(5) in the case of primary cooperative organizations restricts its voting control to members or voting stockholders on a one vote per person basis (except that this requirement shall not apply to any housing cooperative in existence on March 21, 1980, which did not meet such requirement on such date) and takes positive steps to insure economic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case of organizations owned by groups of cooperatives, provides positive protections to insure economic democracy; and

(6) is not a credit union, mutual savings bank, or mutual savings and loan association.

(b) Primary producers

No organization shall be ineligible because it produces, markets, or furnishes goods, services, or facilities on behalf of its members as primary producers, unless the dollar volume of loans made by the Bank to such organizations exceeds 10 per centum of the gross assets of the Bank.

(c) “Net savings” defined

As used in this section, the term “net savings” means, for any period, the borrower’s gross re-

ceipts, less the operating and other expenses deductible therefrom in accordance with generally accepted accounting principles, including, without limitation, contributions to allowable reserves, and after deducting the amounts of any dividends on its capital stock or other membership capital payable during, or within forty-five days after, the close of such period.

(d) Cooperatives eligible for other Federal credit assistance

An eligible cooperative which also has been determined to be eligible for credit assistance from the Rural Electrification Administration, the National Rural Utilities Cooperative Finance Corporation, the Banks for Cooperatives or other institutions of the Farm Credit System, or the Farmers Home Administration may receive the assistance authorized by this chapter only (1) if the Bank determines that a request for assistance from any such source or sources has been rejected or denied solely because of the unavailability of funds from such source or sources, or (2) by agreement between the Bank and the agency or agencies involved.

(e) Credit unions eligible for technical assistance from Office of Self-Help Development and Technical Assistance

Notwithstanding any other provision of this section, a credit union serving predominantly low-income members (as defined by the Administrator of the National Credit Union Administration) may receive technical assistance under subchapter II.

(Pub. L. 95-351, title I, §105, Aug. 20, 1978, 92 Stat. 506; Pub. L. 97-35, title III, §394(e)(1), (f), Aug. 13, 1981, 95 Stat. 436, 437; Pub. L. 115-334, title VI, §6602(b)(18), Dec. 20, 2018, 132 Stat. 4777.)

Editorial Notes

REFERENCES IN TEXT

All subchapters of this chapter, referred to in subsec. (a), was in the original "all titles of this Act", meaning titles I to III of Pub. L. 95-351. Titles I and II constitute this chapter and title III amended section 5315 of Title 5, Government Organization and Employees, and sections 856, 867, and 868 of former Title 31, Money and Finance.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115-334 struck out "the Rural Telephone Bank," after "the National Rural Utilities Cooperative Finance Corporation,".

1981—Subsec. (a). Pub. L. 97-35, §394(e)(1), substituted "primarily owned" for "entirely owned".

Subsec. (a)(5). Pub. L. 97-35, §394(f), inserted provisions relating to exception for housing cooperatives in existence on Mar. 21, 1980.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §394(e)(2), Aug. 13, 1981, 95 Stat. 437, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981]." For definition of "Final Government Equity Redemption Date", see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

TRANSFER OF FUNCTIONS

Functions vested in Administrator of National Credit Union Administration transferred and vested in Na-

tional Credit Union Administration Board pursuant to section 1752a of this title.

§ 3016. Annual meetings; notice, agenda, etc.

The Bank shall hold an annual meeting of its stockholders which shall be open to the public. At least 30 days' advance notice of the time and place of the annual meeting shall be given to all stockholders. Borrowers from the Bank shall also give notice of the meeting to their members, who shall be entitled to attend. At such meeting the Bank shall give a full report of its activities during the year and its financial condition and may present proposals for future action and other matters of general concern to borrowers and organizations eligible to borrow from the Bank. Members and representatives of borrowers may present motions or resolutions relating to matters within the scope of this chapter and may participate in the discussion thereof and other matters on the agenda.

(Pub. L. 95-351, title I, §106, Aug. 20, 1978, 92 Stat. 507.)

§ 3017. Bonds, debentures, notes and other evidences of indebtedness

(a) Authorization for public or private sale; time of issuance, interest rates, and terms and conditions; outstanding amount

The Bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board shall determine: *Provided, however*, That the amount of such obligations which may be outstanding at any one time pursuant to this section shall not exceed ten times the paid-in capital and surplus of the Bank.

(b) Purchase and sale by Bank; methods of sale and delivery

The Bank may purchase its own obligations, and may provide for the sale of any such obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, or otherwise, and may deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(c) Obligations as not guaranteed by United States and not to constitute a debt or obligation of United States

Obligations issued under this section shall not be guaranteed by the United States and shall not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Bank.

(Pub. L. 95-351, title I, §107, Aug. 20, 1978, 92 Stat. 507; Pub. L. 97-35, title III, §§394(g)(1), 396(d), Aug. 13, 1981, 95 Stat. 437, 440.)

Editorial Notes

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35, §394(g)(1), struck out requirement respecting consultation with the Secretary of the Treasury.

Subsecs. (b) to (d). Pub. L. 97-35, §396(d), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and

struck out former subsec. (b) relating to discretionary authority for issuance to and purchase by Secretary of Treasury.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §394(g)(2), Aug. 13, 1981, 95 Stat. 437, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981]." For definition of "Final Government Equity Redemption Date", see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

Amendment by section 396(d) of Pub. L. 97-35 effective on the day after the Final Government Equity Redemption Date (Dec. 31, 1981), see section 396(i) of Pub. L. 97-35, set out as a note under section 3011 of this title.

§ 3017a. Class A notes as paid-in capital of the Bank

Only for purposes of section 3017(a) of this title, class A notes shall be deemed to be paid-in capital of the Bank.

(Pub. L. 97-35, title III, §391(b)(1), Aug. 13, 1981, 95 Stat. 434.)

Editorial Notes

CODIFICATION

Section was enacted as part of the National Consumer Cooperative Bank Act Amendments of 1981 and also as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the National Consumer Cooperative Bank Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 97-35, title III, §391(b)(2), Aug. 13, 1981, 95 Stat. 434, provided that: "This subsection [enacting this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981]." For definition of "Final Government Equity Redemption Date", see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

§ 3018. Loans

(a) General requirements for loans and commitments for loans; limitations; allocation of assistance for low-income persons; criteria and factors for making loans, etc.; publication

The Bank may make loans and commitments for loans under this subsection to any organization determined by the Bank to be eligible under the provisions of section 3015 of this title, and may purchase or discount obligations of members of such organizations if the Bank, to the exclusion of all other persons, entities, agencies, or jurisdictions, also determines that the applicant has or will have a sound organizational and financial structure, income in excess of its operating costs and assets in excess of its obligations, and a reasonable expectation of a continuing demand for its production, goods, commodities, or services, or the use of its facilities, so that the loan will be fully repayable in accordance with its terms and conditions. Commencing on October 1, 1985, the Bank shall not make any loan to a cooperative for the purpose of financing the construction, ownership, acqui-

sition, or improvement of any structure used primarily for residential purposes if, after giving effect to such loan, the aggregate amount of all loans outstanding for such purpose would exceed 30 per centum of the gross assets of the Bank. The Board of Directors shall use its best efforts to insure that at the end of each fiscal year of the Bank at least 35 per centum of its outstanding loans are to—

(1) cooperatives at least a majority of the members of which are low-income persons, and

(2) other cooperatives, if the proceeds of such loans are directly applied to finance a facility, activity, or service that the Board finds will be used predominantly by low-income persons.

The Board shall adopt and publish in the Federal Register rules defining the term "low-income persons" for purposes of this subsection. The criteria to be applied and the factors to be considered by the Bank in making loans, loan commitments, purchases, discounts, and guarantees shall include an assessment of the impact of the loan on existing small businesses in the eligible organizations' business territory. The criteria and factors shall be stated in rules of the Bank which shall be published and made available to applicants and, upon request, to any other person or organization.

(b) Repayment requirements; criteria for terms, rates, and charges; advancement of loan proceeds

Loans under this section shall be repayable in not more than forty years and, except for loans with final due date not longer than five years from the date of the loan, shall be amortized as to principal and interest. In setting the terms, rates, and charges, it shall be the objective of the Bank to provide the type of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the Bank, necessary reserve and expenses of the Bank, and the technical and other assistance attributable to loans under this section made available by the Bank. The loan terms may provide for interest rates to vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Bank for new loans at such times. The proceeds of a loan under this subsection may be advanced by the borrower to its members or stockholders under circumstances described in the bylaws or rules of the Bank.

(c) Guarantees by Bank; requirements; charges

Subject to section 3012(13) of this title, the Bank may guarantee all or any part of the principal and interest of any loan made by any State or federally chartered lending institution to any borrower if such loan is to an organization that would be an eligible borrower from the Bank for a direct loan and is on terms and conditions (including the rate of interest) which would be permissible terms and conditions for such a direct loan. The Bank may impose a charge for any such guarantee. No loan may be guaranteed by the Bank if the income therefrom to the lender is excluded from such lender's gross income for purposes of chapter 1 of title 26.

(d) Assignment of guaranteed loans; contestability of guarantee; criteria for purchase by Bank of guaranteed loan in lieu of requiring service by lender

Any loan guaranteed under subsection (c) shall be assignable to the extent provided in the contract of guarantee as may be determined by the Bank. The guarantee shall be uncontestable, except for fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan. The Bank in lieu of requiring such lender to service such guaranteed loan until final maturity or liquidation, may purchase the loan for the balance of the principal and accrued interest thereon without penalty, if it determines that (1) the liquidation of the loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation, and (2) the loan will be repayable with revision of the loan rates, terms, or payment periods or other conditions not inconsistent with loans made by the Bank under subsection (a) of this section, which revisions the lender or other holder of such guaranteed loan is unwilling to make.

(e) Aggregate amount of commitments to make or guarantee loans

As long as any of the class A stock of the Bank is held by the Secretary of the Treasury, the aggregate amount of commitments by the Bank to make or guarantee loans shall not exceed such amounts as may be specified in annual appropriation Acts.

(Pub. L. 95-351, title I, §108, Aug. 20, 1978, 92 Stat. 508; Pub. L. 97-35, title III, §§394(b), 396(e), Aug. 13, 1981, 95 Stat. 436, 440; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

Editorial Notes

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1981—Subsec. (a). Pub. L. 97-35, §394(b), substituted “1985” for “1983”.

Subsec. (b). Pub. L. 97-35, §396(e), struck out provisions relating to proceeds from class A and class B stock.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 396(e) of Pub. L. 97-35 effective on day after Final Government Equity Redemption Date (Dec. 31, 1981), see section 396(i) of Pub. L. 97-35, set out as a note under section 3011 of this title.

§ 3019. Taxation by State, county, etc., taxing authority; Federal tax status

(a) The Bank, including its franchise, capital, reserves, surplus, mortgages, or other security holdings and income shall be exempt from taxation now or hereafter imposed by any State, county, municipality, or local taxing authority, but any real property held by the Bank shall be subject to any State, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(b) Notwithstanding any other provision of law, for purposes of subchapter T of chapter 1 of title 26—

(1) the Bank shall be treated as a corporation operating on the cooperative basis within the meaning of section 1381(a)(2) of title 26;

(2) the term “patronage dividend”, as defined in section 1388(a) of title 26 includes, only as such section applies to the Bank, any patronage refunds in the form of class B or class C stock or allocated surplus that are distributed or set aside by the Bank pursuant to section 3014(i) of this title;

(3) the terms “written notice of allocation” and “qualified written notices of allocation”, as defined in sections 1388(b) and (c) of title 26, include (to the extent of par value), only as such sections apply to the Bank, any class B or class C stock distributed by the Bank pursuant to section 3014(i) of this title and shall also include any allocated surplus set aside by the Bank pursuant to section 3014(i) of this title;

(4) patrons of the Bank shall be deemed to have consented under section 1388(c)(2) of title 26 to the inclusion in their incomes of any qualified written notices of allocation received by such patrons from the Bank; and

(5) any amounts required to be included in the incomes of patrons of the Bank with respect to class B or class C stock or allocated surplus shall be treated as earnings from business done by such patrons of the Bank with or for their own patrons.

(Pub. L. 95-351, title I, §109, Aug. 20, 1978, 92 Stat. 509; Pub. L. 97-35, title III, §392(a), Aug. 13, 1981, 95 Stat. 434; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

Editorial Notes

REFERENCES IN TEXT

Subchapter T of chapter 1 of title 26, referred to in subsec. (b), is set out as section 1381 et seq. of Title 26, Internal Revenue Code.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1981—Pub. L. 97-35 designated existing provisions as subsec. (a), struck out applicability of Final Government Equity Redemption Date to provisions, and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §392(b), Aug. 13, 1981, 95 Stat. 435, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981].” For definition of “Final Government Equity Redemption Date”, see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

§ 3020. Quarters and space for principal and other offices

Until the Final Government Equity Redemption Date, space for the principal office and any branch offices of the Bank shall be provided by the General Services Administration. Thereafter, the Bank may lease, construct, or own

quarters and provide for the space requirements of its principal and other offices.

(Pub. L. 95-351, title I, §110, Aug. 20, 1978, 92 Stat. 510.)

§ 3021. Annual report to Congress; contents

The Board of the Bank shall report annually to the appropriate committees of the Congress on the Bank's capital, operations, and financial condition and make recommendations for legislation needed to improve its services.

(Pub. L. 95-351, title I, §111, Aug. 20, 1978, 92 Stat. 510.)

§ 3022. Authorization of additional appropriations; restrictions on use

In addition to appropriations specifically authorized in this chapter, there are authorized to be appropriated \$2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, ending September 30, 1980, and September 30, 1981, such sums as may be necessary: *Provided*, That none of these appropriated sums shall be used to retire any indebtedness of the Bank incurred pursuant to section 3017 of this title. Any sums so appropriated shall remain available until expended.

(Pub. L. 95-351, title I, §112, Aug. 20, 1978, 92 Stat. 510.)

§ 3023. Appeal procedures applicable upon denial or restriction of application for assistance

(a) If an application for assistance under this chapter is denied in whole or in part, the applicant shall be informed within thirty days in writing of the reasons for the denial or restriction.

(b) Any applicant for assistance under this chapter receiving notice of denial or restriction of the application may, within thirty days of receipt of such notice, request the Board of Directors to review the application and notice of denial or restriction for a determination of whether the action of the Bank was correctly within the terms of this chapter, the regulations, and the policy of the Board. The Board shall consider the request for review at its next meeting and promptly inform the applicant of its determination and the reasons therefor.

(Pub. L. 95-351, title I, §113, Aug. 20, 1978, 92 Stat. 510.)

§ 3024. Conflict of interest rules; adoption and publication; requirements

The Board of Directors shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the Federal Executive conflict of interest rules contained in Executive Order Numbered 11222 in prohibiting participation or action or the use of inside information for personal advantage on any matter involving a corporation, trust, partnership, or cooperative organization in which a board member, officer, or employee holds a substantial financial interest or holds a position as board member or senior officer, the activities of which organization might be relevant to, be competitive with, or be inconsistent with the objectives

of any bank created under this chapter. These rules shall require—

(1) each nominee for elected membership on the Board established under this chapter to make public and file with the election official before the date of election a statement of his financial interest and position, if any, in such organizations; and

(2) each senior executive officer and appointed member of the Board to file with the appointing officer, before entering that office a statement of his financial interest and position, if any, in such organizations, which shall be available for inspection upon request.

(Pub. L. 95-351, title I, §114, Aug. 20, 1978, 92 Stat. 510; Pub. L. 97-35, title III, §396(f), Aug. 13, 1981, 95 Stat. 440.)

Editorial Notes

REFERENCES IN TEXT

Executive Order Numbered 11222, referred to in text, which was formerly set out as a note under section 201 of Title 18, Crimes and Criminal Procedure, was revoked by Ex. Ord. No. 12674, §501(a), Apr. 12, 1989, 54 F.R. 15161.

AMENDMENTS

1981—Pub. L. 97-35 struck out provisions authorizing section to remain in effect until the Final Government Equity Redemption Date.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective on the day after the Final Government Equity Redemption Date (Dec. 31, 1981), see section 396(i) of Pub. L. 97-35, set out as a note under section 3011 of this title.

§ 3025. Examination and audit

The Farm Credit Administration and the Government Accountability Office are hereby authorized and directed to examine and audit the Bank. Reports regarding such examinations and audits shall be promptly forwarded to both Houses of the Congress. The Bank shall reimburse the Farm Credit Administration for the costs of any examination or audit conducted by the Farm Credit Administration.

(Pub. L. 95-351, title I, §115, Aug. 20, 1978, 92 Stat. 511; Pub. L. 97-35, title III, §394(a)(1), Aug. 13, 1981, 95 Stat. 436; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

Editorial Notes

AMENDMENTS

2004—Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1981—Pub. L. 97-35 substituted provisions relating to examination and audit by the Farm Credit Administration and the General Accounting Office, for provisions relating to annual examinations and audits by an agency or instrumentality of the Federal Government designated by the President.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §394(a)(2), Aug. 13, 1981, 95 Stat. 436, provided that: "The amendment made by

paragraph (1) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981].” For definition of “Final Government Equity Redemption Date”, see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

§ 3026. Acceleration of the Final Government Equity Redemption Date

(a)(1)(A) The Final Government Equity Redemption Date shall occur on December 31, 1981, or not later than 10 days after the date of the enactment of the first Act providing for appropriations for fiscal year 1982 (other than continuing appropriations) for the Department of Housing and Urban Development and Independent Agencies, whichever occurs later.

(B) Not later than 5 days after the Final Government Equity Redemption Date, the Secretary of the Treasury shall publish a notice in the Federal Register indicating the day on which the Final Government Equity Redemption Date occurred.

(2)(A) Before the Final Government Equity Redemption Date, the Secretary of the Treasury shall purchase all class A stock for which the Congress has appropriated funds.

(B) After the Final Government Equity Redemption Date, the Secretary of the Treasury shall not purchase any class A stock.

(3)(A) On the Final Government Equity Redemption Date, all class A stock held by the Secretary of the Treasury on such date shall be redeemed by the Bank in exchange for class A notes which are issued by the Bank to the Secretary of the Treasury on behalf of the United States and which have a total face value equal to the total par value of the class A stock which is so redeemed, plus any unpaid dividends on such stock.

(B) During the period beginning on the Final Government Equity Redemption Date and ending on December 31, 1990, not less than 30 percent of the revenue derived from the sale of stock by the Bank, other than the sale of class B stock or class C stock, shall be used, upon receipt, to retire class A notes.

(C) After December 31, 1990, the Bank shall maintain a repayment schedule for class A notes which will assure full repayment of all class A notes not later than December 31, 2020. The requirement specified in the previous sentence is in addition to the requirement regarding the redemption of class A notes which is specified in section 3014(c) of this title.

(b)(1) The United States shall not be responsible for any obligation of the Bank which is incurred after the Final Government Equity Redemption Date.

(2) As soon as practicable after August 13, 1981, the Board shall adopt bylaws which will assist in expediting and coordinating the activities which will occur with respect to the Final Government Equity Redemption Date.

(Pub. L. 95-351, title I, §116, as added Pub. L. 97-35, title III, §391(a)(1), Aug. 13, 1981, 95 Stat. 433.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the first Act providing for appropriations for fiscal year 1982 (other than con-

tinuing appropriations) for the Department of Housing and Urban Development and Independent Agencies, referred to in subsec. (a)(1)(A), is Dec. 23, 1981, the date of enactment of Pub. L. 97-101, 95 Stat. 1417, known as the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1982.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 97-35, title III, §391(a)(2), Aug. 13, 1981, 95 Stat. 434, provided that: “The amendment made by paragraph (1) [enacting this section] shall take effect on the date of the enactment of this Act [Aug. 13, 1981].”

FINAL GOVERNMENT EQUITY REDEMPTION DATE ESTABLISHED

Pub. L. 97-101, title V, §501(36), Dec. 23, 1981, 95 Stat. 1440, provided in part that: “the final Government equity redemption date for the National Consumer Cooperative Bank shall occur on December 31, 1981.”

SUBCHAPTER II—OFFICE OF SELF-HELP DEVELOPMENT AND TECHNICAL ASSISTANCE

§ 3041. Establishment; appointment, etc., of Director

(a) There is hereby established within the Bank an Office of Self-Help Development and Technical Assistance (hereinafter the “Office”).

(b) The Office shall have a Director who shall be appointed by the President, with the advice and consent of the Senate, and who shall not be a member of the Board. Subject to review by the Board, the Director shall promulgate and publish in the Federal Register policies and procedures governing the operation of the Office.

(Pub. L. 95-351, title II, §201, Aug. 20, 1978, 92 Stat. 511.)

Statutory Notes and Related Subsidiaries

ABOLITION OF OFFICE AND PERFORMANCE OF FUNCTIONS

For abolition of the Office of Self-Help Development and Technical Assistance and performance of the functions by a nonprofit corporation upon the incorporation of the nonprofit corporation, see section 3051 of this title.

§ 3042. Authorization of appropriations for advances; deposits into separate Account in Bank; availability of amounts

There are hereby authorized to be appropriated to the Office for the purpose of making advances under section 3043 of this title an amount not to exceed \$14,000,000 for fiscal year 1982. Any amounts appropriated to the Office shall be deposited by the Office in a separate account in the Bank (hereinafter the “Account”), and shall remain available until expended. Repayments of capital investment advances made pursuant to section 3043(a) of this title and interest supplement advances made pursuant to section 3043(b) of this title and payments of interest thereon pursuant to section 3043(c) of this title shall also be deposited in the Account. No other funds of the Bank shall be transferred into the Account. The Account shall be used by the Office only as authorized in section 3043 of this title.

(Pub. L. 95-351, title II, §202, Aug. 20, 1978, 92 Stat. 511; Pub. L. 97-35, title III, §395(b)(1), Aug. 13, 1981, 95 Stat. 438.)

Editorial Notes

AMENDMENTS

1981—Pub. L. 97-35 substituted provisions authorizing appropriations for fiscal year 1982, for provisions authorizing appropriations for the fiscal year ending Sept. 30, 1979, and the next two succeeding fiscal years.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 395(b)(3) of Pub. L. 97-35, set out as a note under section 3014 of this title.

§ 3043. Advances

(a) Capital investment advances; criteria

The Office may make a capital investment advance to any eligible cooperative, either in conjunction with or without a loan if the Office determines that—

(1)(A) the applicant's initial or supplemental capital requirements exceeds its ability to obtain such capital through a loan under section 3018 of this title or from other sources; or

(B) the membership of the applicant is, or will consist, substantially of low-income persons, as defined by the Board of Directors, or the applicant proposes to undertake to provide specialized goods, services, or facilities to serve their needs; and

(2) the applicant cannot obtain sufficient funds through a loan under section 3018 of this title or otherwise, and the applicant presents a plan which the Office determines will permit the replacement of a capital investment advance out of member equities within a period not to exceed thirty years.

(b) Interest supplement advances; criteria; amount

The Office may make advances to pay all or part of the interest payable to the Bank or any other lender by an eligible cooperative applicant which the Office determines cannot pay a market rate of interest because it sells goods or services to, or provides facilities for the use of, persons of low income: *Provided*, That such advances will not exceed an amount equal to 4 per centum of the principal amount of the indebtedness of such applicant to the Bank or such other lender for any year in which the net income of the cooperative is insufficient to meet scheduled interest payments.

(c) Interest rate applicable to advances

Capital investment advances made by the Office pursuant to subsection (a) and interest supplement advances made by the Office pursuant to subsection (b) shall bear interest at a rate determined by the Board of Directors of the Bank, and the Board of Directors may authorize an interest rate applicable to such advances lower than the rate applicable to loans by the Bank pursuant to section 3018 of this title.

(Pub. L. 95-351, title II, §203, Aug. 20, 1978, 92 Stat. 512; Pub. L. 97-35, title III, §396(g), Aug. 13, 1981, 95 Stat. 440.)

Editorial Notes

AMENDMENTS

1981—Subsecs. (a), (b). Pub. L. 97-35 struck out references to the Account wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective on the day after the Final Government Equity Redemption Date (Dec. 31, 1981), see section 396(i) of Pub. L. 97-35, set out as a note under section 3011 of this title.

§ 3044. Services and information for organization, financing, and management of cooperatives; availability; agreements for development and dissemination; funding

The Office shall make available information and services concerning the organization, financing, and management of cooperatives to best achieve the objectives of this chapter and to best provide the means through which various types of goods, services, and facilities can be made available to members and patrons. The Office may enter into agreements with other agencies of Federal, State, and local governments, colleges and universities, foundations, or other organizations for the development and dissemination of such information, and services described in this subchapter. The Office may make or accept grants or transfer of funds for such purposes.

(Pub. L. 95-351, title II, §204, Aug. 20, 1978, 92 Stat. 512.)

§ 3045. Investigations and surveys respecting new services, etc., by cooperative not-for-profit organizations

The Office may undertake investigations of new types of services which can more effectively be provided through cooperative not-for-profit organizations and make surveys of areas where the increased use of such organizations will contribute to the economic well-being of the community.

(Pub. L. 95-351, title II, §205, Aug. 20, 1978, 92 Stat. 512.)

§ 3046. Financial analysis and market surveys at request of eligible cooperative

The Office may, at the request of any eligible cooperative, provide a financial analysis of the applicant's capital structure and needs and its cost of operations, survey the market for the goods or services the cooperative makes or desires to make available to its members or patrons or the users of its facilities.

(Pub. L. 95-351, title II, §206, Aug. 20, 1978, 92 Stat. 513.)

§ 3047. Programs for training directors and staff of eligible cooperatives, and public education; development and availability; scope and implementation

The Office shall develop and make available, alone or in concert with other organizations, a program for training directors and staff of eligible cooperatives to improve their understanding

of their responsibilities; the problems of and solutions for effective and efficient operation of their organizations or of cooperatives in general; and may by any means it deems appropriate, conduct membership studies, provide membership education programs, and programs for informing consumers and the general public of the advantages of cooperative action. Management supervision, review, and consultations shall be available from the Office to any eligible cooperative.

(Pub. L. 95-351, title II, §207, Aug. 20, 1978, 92 Stat. 513.)

§ 3048. Cooperation with Federal agencies offering programs for consumer cooperatives in disseminating information

The Office shall work closely with all United States Government agencies offering programs for which consumer cooperatives may be eligible to assure that information concerning all such programs is made available to eligible cooperatives.

(Pub. L. 95-351, title II, §208, Aug. 20, 1978, 92 Stat. 513.)

§ 3049. Authorization of appropriations for administration; availability of amounts

There are authorized to be appropriated to the Office \$2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, such sums as may be necessary for the administration of this subchapter. Any sums so appropriated shall remain available until expended.

(Pub. L. 95-351, title II, §209, Aug. 20, 1978, 92 Stat. 513.)

§ 3050. Fees for providing technical assistance services; waiver; accounting and availability

The Office may make the technical assistance services under this subchapter available for such fees as it may establish, except that such services as the Office may determine may be made available without charge to eligible cooperatives depending on the nature of the services or on ability to pay. Any fees collected shall be accounted for separately and be available for expenses of the Office.

(Pub. L. 95-351, title II, §210, Aug. 20, 1978, 92 Stat. 513.)

§ 3051. Nonprofit corporation

(a) Office of Self-Help Development and Technical Assistance abolished; transfer of assets, etc.

(1) Upon the incorporation of the nonprofit corporation described in subsection (b), the Office of Self-Help Development and Technical Assistance is hereby abolished.

(2)(A) If the nonprofit corporation described in subsection (b) agrees to accept the liabilities of the Office, the Bank, notwithstanding any other provision of law, shall transfer all assets, liabilities, and property of the Office to such nonprofit corporation on the day on which such nonprofit corporation is incorporated.

(B) Such assets shall include all sums which are appropriated to the Office by the Congress

and all sums which are contained in the Account established pursuant to section 3042 of this title. If any such sums are appropriated after the date on which the transfer described in subparagraph (A) occurs, the Bank shall promptly transfer such sums to such nonprofit corporation.

(b) Establishment; Board of Directors; functions, etc.

(1) As soon as possible after August 13, 1981, the Board shall establish a nonprofit corporation under the laws of the District of Columbia and, notwithstanding the laws of the District of Columbia, name the directors of such nonprofit corporation.

(2) Notwithstanding the laws of the District of Columbia, the Board of Directors of such nonprofit corporation shall—

(A) select an executive director who shall be responsible for the administration of such nonprofit corporation;

(B) set the compensation of such executive director and the other employees of such nonprofit corporation;

(C) promulgate and publish the policies of such nonprofit corporation and make such policies available at all times to eligible cooperatives; and

(D) perform the functions specified in subparagraphs (A) and (C) of paragraph (3).

(3) Such nonprofit corporation shall only perform—

(A) the functions which are authorized to be performed pursuant to sections 3043 through 3048 of this title and section 3050 of this title;

(B) such functions as are necessary to comply with the laws under which it was incorporated in the District of Columbia; and

(C) such functions as are necessary to remain qualified as an organization described in section 501(c)(3) of title 26.

(4) Notwithstanding any other provision of law—

(A) the Bank may provide administrative or staff support to such nonprofit corporation; and

(B) any member of the Board of Directors of the Bank may serve as a member of the Board of Directors of such nonprofit corporation.

(c) Treatment for tax purposes

(1) Notwithstanding any other provision of law, such nonprofit corporation shall be deemed to be, and treated as, qualified as an organization described in section 501(c)(3) of title 26 from the date on which such nonprofit corporation is established under the laws of the District of Columbia until the date on which the Internal Revenue Service makes a final determination on the application which such nonprofit corporation will submit to the Internal Revenue Service seeking status as an organization qualifying under such section.

(2) When performed by such nonprofit corporation, the functions described in subsection (b)(3)(A) shall be deemed to be performed for "charitable purposes" within the meaning of section 501(c)(3) of title 26.

(d) Contributions from the Bank

(1) The Board of Directors of the Bank may make contributions to the nonprofit corporation

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-

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