(iii) phased retirement;
(iv) reemployed annuitants;
(v) part-time work;
(vi) job sharing;
(vii) parental leave benefits and childcare assistance;
(viii) domestic partner benefits;
(ix) other workplace flexibilities; or
(x) any combination of the items described in clauses (i) through (ix).

(C) Recruitment and retention plan

The Office shall submit a recruitment and retention plan that includes, to the extent practicable, provisions relating to—
(i) the steps necessary to target highly qualified applicant pools with diverse backgrounds;
(ii) streamlined employment application processes;
(iii) the provision of timely notification of the status of employment applications to applicants; and
(iv) the collection of information to measure indicators of hiring effectiveness.

(c) Expiration

The reporting requirement under subsection (b) shall terminate 5 years after July 21, 2010.

(d) Rule of construction

Nothing in this section may be construed to affect—
(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, that is in effect on July 21, 2010; or
(2) the rights of employees under chapter 71 of title 5.

(Pub. L. 111–203, title I, § 156, July 21, 2010, 124 Stat. 1419.)

PART C—ADDITIONAL BOARD OF GOVERNORS AUTHORITY FOR CERTAIN NONBANK FINANCIAL COMPANIES AND BANK HOLDING COMPANIES

§ 5361. Reports by and examinations of nonbank financial companies by the Board of Governors

(a) Reports

(1) In general

The Board of Governors may require each nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit reports under oath, to keep the Board of Governors informed as to—
(A) the financial condition of the company or subsidiary, systems of the company or subsidiary for monitoring and controlling financial, operating, and other risks, and the extent to which the activities and operations of the company or subsidiary pose a threat to the financial stability of the United States; and
(B) compliance by the company or subsidiary with the requirements of this subchapter.

(2) Use of existing reports and information

In carrying out subsection (a), the Board of Governors shall, to the fullest extent possible, use—
(A) reports and supervisory information that a nonbank financial company or subsidiary thereof has been required to provide to other Federal or State regulatory agencies;
(B) information otherwise obtainable from Federal or State regulatory agencies;
(C) information that is otherwise required to be reported publicly; and
(D) externally audited financial statements of such company or subsidiary.

(3) Availability

Upon the request of the Board of Governors, a nonbank financial company supervised by the Board of Governors, or a subsidiary thereof, shall promptly provide to the Board of Governors any information described in paragraph (2).

(4) Data standards for reports under this subsection

(A) In general

The Board of Governors shall adopt data standards for all information that, through a collection of information, is regularly filed with or submitted to the Board of Governors under this subsection by any nonbank financial company supervised by the Board of Governors or any subsidiary thereof.

(B) Consistency

The data standards required under subparagraph (A) shall incorporate, and ensure compatibility with (to the extent feasible), all applicable data standards established in the rules promulgated under section 5334 of this title, including, to the extent practicable, by having the characteristics described in clauses (i) through (vi) of subsection (c)(1)(B) of section 5334 of this title.

(b) Examinations

(1) In general

Subject to paragraph (2), the Board of Governors may examine any nonbank financial company supervised by the Board of Governors and any subsidiary of such company, to inform the Board of Governors of—
(A) the nature of the operations and financial condition of the company and such subsidiary;
(B) the financial, operational, and other risks of the company or such subsidiary that may pose a threat to the safety and soundness of such company or subsidiary or to the financial stability of the United States;
(C) the systems for monitoring and controlling such risks; and
(D) compliance by the company or such subsidiary with the requirements of this subchapter.

(2) Use of examination reports and information

For purposes of this subsection, the Board of Governors shall, to the fullest extent possible, rely on reports of examination of any subsidiary depository institution or functionally regulated subsidiary made by the primary financial regulatory agency for that subsidiary, and on information described in subsection (a)(2).

(c) Coordination with primary financial regulatory agency

The Board of Governors shall—

(1) provide reasonable notice to, and consult with, the primary financial regulatory agency for any subsidiary before requiring a report or commencing an examination of such subsidiary under this section; and

(2) avoid duplication of examination activities, reporting requirements, and requests for information, to the fullest extent possible.

(Pub. L. 111–203, title I, §161, July 21, 2010, 124 Stat. 1420; Pub. L. 117–263, div. E, title LVIII, §5861(a), Dec. 23, 2022, 136 Stat. 3434.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(1)(B) and (b)(1)(D), was in the original ''this title'', meaning title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1391, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 5301 of this title and Tables.

AMENDMENTS

2022—Subsec. (a)(4). Pub. L. 117–263 added par. (4).

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION REGARDING NO NEW DISCLOSURE REQUIREMENTS

Amendment by Pub. L. 117–263 not to be construed to require certain additional information to be collected or disclosed, see section 5864 of Pub. L. 117–263, set out as a note under section 253 of this title.

§ 5362. Enforcement

(a) In general

Except as provided in subsection (b), a nonbank financial company supervised by the Board of Governors and any subsidiaries of such company (other than any depository institution subsidiary) shall be subject to the provisions of subsections (b) through (n) of section 1818 of this title, in the same manner and to the same extent as if the company were a bank holding company, as provided in section 1818(b)(3) of this title.

(b) Enforcement authority for functionally regulated subsidiaries

(1) Referral

If the Board of Governors determines that a condition, practice, or activity of a depository institution subsidiary or functionally regulated subsidiary of a nonbank financial company supervised by the Board of Governors does not comply with the regulations or orders prescribed by the Board of Governors under this Act, or otherwise poses a threat to the financial stability of the United States, the Board of Governors may recommend, in writing, to the primary financial regulatory agency for the subsidiary that such agency initiate a supervisory action or enforcement proceeding. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

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

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

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

Editorial Notes

REFERENCES IN TEXT

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

§ 5363. Acquisitions

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

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

(b) Acquisition of nonbank companies

(1) Prior notice for large acquisitions

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

(2) Exemptions

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

(3) Notice procedures

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

(1), including any such company engaged in activities described in section 1843(k) of this title.

(4) Standards for review

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

(5) Hart-Scott-Rodino filing requirement

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

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

Editorial Notes

AMENDMENTS

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

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

CONSTRUCTION OF 2018 AMENDMENT

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

§ 5364. Prohibition against management interlocks between certain financial companies

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

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

Editorial Notes

REFERENCES IN TEXT

The Depository Institution Management Interlocks Act, referred to in text, is title II of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3672, which is classified principally to chapter 33 (§ 3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

AMENDMENTS

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

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

CONSTRUCTION OF 2018 AMENDMENT

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

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

(a) In general

(1) Purpose

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

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

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

(2) Tailored application

(A) In general

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

(B) Adjustment of threshold for application of certain standards

The Board of Governors may, pursuant to a recommendation by the Council in accordance with section 5325 of this title, establish an asset threshold above the applicable threshold for the application of any standard

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

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

established under subsections (c) through (g).

(C) Risks to financial stability and safety and soundness

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

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

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

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

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

(b) Development of prudential standards

(1) In general

(A) Required standards

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

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

(ii) liquidity requirements;

(iii) overall risk management requirements;

(iv) resolution plan requirements; and

(v) concentration limits.

(B) Additional standards authorized

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

(i) a contingent capital requirement;

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

(iii) short-term debt limits; and

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

(2) Standards for foreign financial companies

In applying the standards set forth in paragraph (1) to any foreign nonbank financial company supervised by the Board of Governors or foreign-based bank holding company, the Board of Governors shall—

(A) give due regard to the principle of national treatment and equality of competitive opportunity; and

(B) take into account the extent to which the foreign financial company is subject on a consolidated basis to home country standards that are comparable to those applied to financial companies in the United States.

(3) Considerations

In prescribing prudential standards under paragraph (1), the Board of Governors shall—

(A) take into account differences among nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), based on—

(i) the factors described in subsections (a) and (b) of section 5323 of this title;

(ii) whether the company owns an insured depository institution;

(iii) nonfinancial activities and affiliations of the company; and

(iv) any other risk-related factors that the Board of Governors determines appropriate;

(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 5323 of this title would not result in sharp, discontinuous changes in the prudential standards established under paragraph (1) of this subsection;

(C) take into account any recommendations of the Council under section 5325 of this title; and

(D) adapt the required standards as appropriate in light of any predominant line of business of such company, including assets under management or other activities for which particular standards may not be appropriate.

(4) Consultation

Before imposing prudential standards or any other requirements pursuant to this section, including notices of deficiencies in resolution plans and more stringent requirements or divestiture orders resulting from such notices, that are likely to have a significant impact on a functionally regulated subsidiary or depository institution subsidiary of a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), the Board of Governors shall consult with each Council member that primarily supervises any such subsidiary with respect to any such standard or requirement.

(5) Report

The Board of Governors shall submit an annual report to Congress regarding the implementation of the prudential standards required pursuant to paragraph (1), including the use of such standards to mitigate risks to the financial stability of the United States.

(c) Contingent capital

(1) In general

Subsequent to submission by the Council of a report to Congress under section 5325(c) of this title, the Board of Governors may issue regulations that require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to maintain a minimum amount of contingent capital that is convertible to equity in times of financial stress.

(2) Factors to consider

In issuing regulations under this subsection, the Board of Governors shall consider—

(A) the results of the study undertaken by the Council, and any recommendations of the Council, under section 5325(c) of this title;

(B) an appropriate transition period for implementation of contingent capital under this subsection;

(C) the factors described in subsection (b)(3)(A);

(D) capital requirements applicable to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof; and

(E) any other factor that the Board of Governors deems appropriate.

(d) Resolution plan and credit exposure reports

(1) Resolution plan

The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation the plan of such company for rapid and orderly resolution in the event of material financial distress or failure, which shall include—

(A) information regarding the manner and extent to which any insured depository institution affiliated with the company is adequately protected from risks arising from the activities of any nonbank subsidiaries of the company;

(B) full descriptions of the ownership structure, assets, liabilities, and contractual obligations of the company;

(C) identification of the cross-guarantees tied to different securities, identification of major counterparties, and a process for determining to whom the collateral of the company is pledged; and

(D) any other information that the Board of Governors and the Corporation jointly require by rule or order.

(2) Credit exposure report

The Board of Governors may require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation on—

(A) the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and

(B) the nature and extent to which other significant nonbank financial companies and significant bank holding companies have credit exposure to that company.

(3) Review

The Board of Governors and the Corporation shall review the information provided in accordance with this subsection by each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a).

(4) Notice of deficiencies

If the Board of Governors and the Corporation jointly determine, based on their review under paragraph (3), that the resolution plan of a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) is not credible or would not facilitate an orderly resolution of the company under title 11—

(A) the Board of Governors and the Corporation shall notify the company of the deficiencies in the resolution plan; and

(B) the company shall resubmit the resolution plan within a timeframe determined by the Board of Governors and the Corporation, with revisions demonstrating that the plan is credible and would result in an orderly resolution under title 11, including any proposed changes in business operations and corporate structure to facilitate implementation of the plan.

(5) Failure to resubmit credible plan

(A) In general

If a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) fails to timely resubmit the resolution plan as required under paragraph (4), with such revisions as are required under subparagraph (B), the Board of Governors and the Corporation may jointly impose more stringent capital, leverage, or liquidity requirements, or restrictions on the growth, activities, or operations of the company, or any subsidiary thereof, until such time as the company resubmits a plan that remedies the deficiencies.

(B) Divestiture

The Board of Governors and the Corporation, in consultation with the Council, may jointly direct a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), by order, to divest certain assets or operations identified by the Board of Governors and the Corporation, to facilitate an orderly resolution of such company under title 11, in the event of the failure of such company, in any case in which—

(i) the Board of Governors and the Corporation have jointly imposed more stringent requirements on the company pursuant to subparagraph (A); and

(ii) the company has failed, within the 2-year period beginning on the date of the imposition of such requirements under subparagraph (A), to resubmit the resolu-

tion plan with such revisions as were required under paragraph (4)(B).

(6) No limiting effect

A resolution plan submitted in accordance with this subsection shall not be binding on a bankruptcy court, a receiver appointed under subchapter II, or any other authority that is authorized or required to resolve the nonbank financial company supervised by the Board, any bank holding company, or any subsidiary or affiliate of the foregoing.

(7) No private right of action

No private right of action may be based on any resolution plan submitted in accordance with this subsection.

(8) Rules

Not later than 18 months after July 21, 2010, the Board of Governors and the Corporation shall jointly issue final rules implementing this subsection.

(e) Concentration limits

(1) Standards

In order to limit the risks that the failure of any individual company could pose to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), the Board of Governors, by regulation, shall prescribe standards that limit such risks.

(2) Limitation on credit exposure

The regulations prescribed by the Board of Governors under paragraph (1) shall prohibit each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) from having credit exposure to any unaffiliated company that exceeds 25 percent of the capital stock and surplus (or such lower amount as the Board of Governors may determine by regulation to be necessary to mitigate risks to the financial stability of the United States) of the company.

(3) Credit exposure

For purposes of paragraph (2), ''credit exposure'' to a company means—

(A) all extensions of credit to the company, including loans, deposits, and lines of credit;

(B) all repurchase agreements and reverse repurchase agreements with the company, and all securities borrowing and lending transactions with the company, to the extent that such transactions create credit exposure for the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a);

(C) all guarantees, acceptances, or letters of credit (including endorsement or standby letters of credit) issued on behalf of the company;

(D) all purchases of or investment in securities issued by the company;

(E) counterparty credit exposure to the company in connection with a derivative transaction between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the company; and

(F) any other similar transactions that the Board of Governors, by regulation, determines to be a credit exposure for purposes of this section.

(4) Attribution rule

For purposes of this subsection, any transaction by a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) with any person is a transaction with a company, to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that company.

(5) Rulemaking

The Board of Governors may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out this subsection.

(6) Exemptions

This subsection shall not apply to any Federal home loan bank. The Board of Governors may, by regulation or order, exempt transactions, in whole or in part, from the definition of the term ''credit exposure'' for purposes of this subsection, if the Board of Governors finds that the exemption is in the public interest and is consistent with the purpose of this subsection.

(7) Transition period

(A) In general

This subsection and any regulations and orders of the Board of Governors under this subsection shall not be effective until 3 years after July 21, 2010.

(B) Extension authorized

The Board of Governors may extend the period specified in subparagraph (A) for not longer than an additional 2 years.

(f) Enhanced public disclosures

The Board of Governors may prescribe, by regulation, periodic public disclosures by nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) in order to support market evaluation of the risk profile, capital adequacy, and risk management capabilities thereof.

(g) Short-term debt limits

(1) In general

In order to mitigate the risks that an over-accumulation of short-term debt could pose to financial companies and to the stability of the United States financial system, the Board of Governors may, by regulation, prescribe a limit on the amount of short-term debt, including off-balance sheet exposures, that may be accumulated by any bank holding company described in subsection (a) and any nonbank financial company supervised by the Board of Governors.

(2) Basis of limit

Any limit prescribed under paragraph (1) shall be based on the short-term debt of the

company described in paragraph (1) as a percentage of capital stock and surplus of the company or on such other measure as the Board of Governors considers appropriate.

(3) Short-term debt defined

For purposes of this subsection, the term ''short-term debt'' means such liabilities with short-dated maturity that the Board of Governors identifies, by regulation, except that such term does not include insured deposits.

(4) Rulemaking authority

In addition to prescribing regulations under paragraphs (1) and (3), the Board of Governors may prescribe such regulations, including definitions consistent with this subsection, and issue such orders, as may be necessary to carry out this subsection.

(5) Authority to issue exemptions and adjustments

Notwithstanding the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), the Board of Governors may, if it determines such action is necessary to ensure appropriate heightened prudential supervision, with respect to a company described in paragraph (1) that does not control an insured depository institution, issue to such company an exemption from or adjustment to the limit prescribed under paragraph (1).

(h) Risk committee

(1) Nonbank financial companies supervised by the Board of Governors

The Board of Governors shall require each nonbank financial company supervised by the Board of Governors that is a publicly traded company to establish a risk committee, as set forth in paragraph (3), not later than 1 year after the date of receipt of a notice of final determination under section 5323(e)(3) of this title with respect to such nonbank financial company supervised by the Board of Governors.

(2) Certain bank holding companies

(A) Mandatory regulations

The Board of Governors shall issue regulations requiring each bank holding company that is a publicly traded company and that has total consolidated assets of not less than $50,000,000,000 to establish a risk committee, as set forth in paragraph (3).

(B) Permissive regulations

The Board of Governors may require each bank holding company that is a publicly traded company and that has total consolidated assets of less than $50,000,000,000 to establish a risk committee, as set forth in paragraph (3), as determined necessary or appropriate by the Board of Governors to promote sound risk management practices.

(3) Risk committee

A risk committee required by this subsection shall—

(A) be responsible for the oversight of the enterprise-wide risk management practices of the nonbank financial company supervised by the Board of Governors or bank holding company described in subsection (a), as applicable;

(B) include such number of independent directors as the Board of Governors may determine appropriate, based on the nature of operations, size of assets, and other appropriate criteria related to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), as applicable; and

(C) include at least 1 risk management expert having experience in identifying, assessing, and managing risk exposures of large, complex firms.

(4) Rulemaking

The Board of Governors shall issue final rules to carry out this subsection, not later than 1 year after the transfer date, to take effect not later than 15 months after the transfer date.

(i) Stress tests

(1) By the Board of Governors

(A) Annual tests required

The Board of Governors, in coordination with the appropriate primary financial regulatory agencies and the Federal Insurance Office, shall conduct annual analyses in which nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) are subject to evaluation of whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.

(B) Test parameters and consequences

The Board of Governors—

(i) shall provide for at least 2 different sets of conditions under which the evaluation required by this subsection shall be conducted, including baseline and severely adverse;

(ii) may require the tests described in subparagraph (A) at bank holding companies and nonbank financial companies, in addition to those for which annual tests are required under subparagraph (A);

(iii) may develop and apply such other analytic techniques as are necessary to identify, measure, and monitor risks to the financial stability of the United States;

(iv) shall require the companies described in subparagraph (A) to update their resolution plans required under subsection (d)(1), as the Board of Governors determines appropriate, based on the results of the analyses; and

(v) shall publish a summary of the results of the tests required under subparagraph (A) or clause (ii) of this subparagraph.

(2) By the company

(A) Requirement

A nonbank financial company supervised by the Board of Governors and a bank holding company described in subsection (a) shall conduct periodic stress tests. All other

financial companies that have total consolidated assets of more than $250,000,000,000 and are regulated by a primary Federal financial regulatory agency shall conduct periodic stress tests. The tests required under this subparagraph shall be conducted in accordance with the regulations prescribed under subparagraph (C).

(B) Report

A company required to conduct stress tests under subparagraph (A) shall submit a report to the Board of Governors and to its primary financial regulatory agency at such time, in such form, and containing such information as the primary financial regulatory agency shall require.

(C) Regulations

Each Federal primary financial regulatory agency, in coordination with the Board of Governors and the Federal Insurance Office, shall issue consistent and comparable regulations to implement this paragraph that shall—

(i) define the term ''stress test'' for purposes of this paragraph;

(ii) establish methodologies for the conduct of stress tests required by this paragraph that shall provide for at least 2 different sets of conditions, including baseline and severely adverse;

(iii) establish the form and content of the report required by subparagraph (B); and

(iv) require companies subject to this paragraph to publish a summary of the results of the required stress tests.

(j) Leverage limitation

(1) Requirement

The Board of Governors shall require a bank holding company with total consolidated assets equal to or greater than $250,000,000,000 or a nonbank financial company supervised by the Board of Governors to maintain a debt to equity ratio of no more than 15 to 1, upon a determination by the Council that such company poses a grave threat to the financial stability of the United States and that the imposition of such requirement is necessary to mitigate the risk that such company poses to the financial stability of the United States. Nothing in this paragraph shall apply to a Federal home loan bank.

(2) Considerations

In making a determination under this subsection, the Council shall consider the factors described in subsections (a) and (b) of section 5323 of this title and any other risk-related factors that the Council deems appropriate.

(3) Regulations

The Board of Governors shall promulgate regulations to establish procedures and timelines for complying with the requirements of this subsection.

(k) Inclusion of off-balance-sheet activities in computing capital requirements

(1) In general

In the case of any bank holding company described in subsection (a) or nonbank financial company supervised by the Board of Governors, the computation of capital for purposes of meeting capital requirements shall take into account any off-balance-sheet activities of the company.

(2) Exemptions

If the Board of Governors determines that an exemption from the requirement under paragraph (1) is appropriate, the Board of Governors may exempt a company, or any transaction or transactions engaged in by such company, from the requirements of paragraph (1).

(3) Off-balance-sheet activities defined

For purposes of this subsection, the term ''off-balance-sheet activities'' means an existing liability of a company that is not currently a balance sheet liability, but may become one upon the happening of some future event, including the following transactions, to the extent that they may create a liability:

(A) Direct credit substitutes in which a bank substitutes its own credit for a third party, including standby letters of credit.

(B) Irrevocable letters of credit that guarantee repayment of commercial paper or tax-exempt securities.

(C) Risk participations in bankers' acceptances.

(D) Sale and repurchase agreements.

(E) Asset sales with recourse against the seller.

(F) Interest rate swaps.

(G) Credit swaps.

(H) Commodities contracts.

(I) Forward contracts.

(J) Securities contracts.

(K) Such other activities or transactions as the Board of Governors may, by rule, define.

(Pub. L. 111–203, title I, §165, July 21, 2010, 124 Stat. 1423; Pub. L. 115–174, title IV, §401(a), May 24, 2018, 132 Stat. 1356.)

Editorial Notes

REFERENCES IN TEXT

Subchapter II, referred to in subsec. (d)(6), was in the original ''title II'', meaning title II of Pub. L. 111–203, July 21, 2010, 124 Stat. 1442, which is classified principally to subchapter II (§5381 et seq.) of this chapter. For complete classification of title II to the Code, see Tables.

The Bank Holding Company Act of 1956, referred to in subsec. (g)(5), is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–174, §401(a)(1)(A), substituted ''$250,000,000,000'' for ''$50,000,000,000'' in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 115–174, §401(a)(1)(B)(i), substituted ''the Board of Governors shall'' for ''the Board of Governors may''.

Subsec. (a)(2)(B). Pub. L. 115–174, §401(a)(1)(B)(ii), substituted ''the applicable threshold'' for ''$50,000,000,000''.

Subsec. (a)(2)(C). Pub. L. 115–174, §401(a)(1)(B)(iii), added subpar. (C).

Subsec. (b)(1)(A)(iv). Pub. L. 115–174, §401(a)(2)(A), struck out ''and credit exposure report'' after ''resolution plan''.

Subsec. (b)(1)(B)(ii). Pub. L. 115–174, § 401(a)(2)(B), inserted '', including credit exposure reports'' before semicolon at end.

Subsec. (d)(2). Pub. L. 115–174, § 401(a)(3), substituted ''The Board of Governors may'' for ''The Board of Governors shall'' in introductory provisions.

Subsec. (h)(2). Pub. L. 115–174, § 401(a)(4), substituted ''$50,000,000,000'' for ''$10,000,000,000'' in two places.

Subsec. (i)(1)(B)(i). Pub. L. 115–174, § 401(a)(5)(A), substituted ''2 different sets'' for ''3 different sets'' and struck out '', adverse,'' after ''baseline''.

Subsec. (i)(2)(A). Pub. L. 115–174, § 401(a)(5)(B)(i), in first sentence, substituted ''periodic'' for ''semiannual'' and, in second sentence, substituted ''$250,000,000,000'' for ''$10,000,000,000'' and ''periodic'' for ''annual''.

Subsec. (i)(2)(C)(ii). Pub. L. 115–174, § 401(a)(5)(B)(ii), substituted ''2 different sets'' for ''3 different sets'' and struck out '', adverse,'' after ''baseline''.

Subsec. (j)(1). Pub. L. 115–174, § 401(a)(6), substituted ''$250,000,000,000'' for ''$50,000,000,000''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–174, title IV, § 401(d), May 24, 2018, 132 Stat. 1358, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 248, 5325, 5326, 5331, 5345, 5363, and 5364 of this title] shall take effect on the date that is 18 months after the date of enactment of this Act [May 24, 2018].

''(2) EXCEPTION.—Notwithstanding paragraph (1), the amendments made by this section shall take effect on the date of enactment of this Act with respect to any bank holding company with total consolidated assets of less than $100,000,000,000.

''(3) ADDITIONAL AUTHORITY.—Before the effective date described in paragraph (1), the Board of Governors of the Federal Reserve System may by order exempt any bank holding company with total consolidated assets of less than $250,000,000,000 from any prudential standard under section 165 of the Financial Stability Act of 2010 (12 U.S.C. 5365).

''(4) RULE OF CONSTRUCTION.—Nothing in this section [amending this section and sections 248, 5325, 5326, 5331, 5345, 5363, and 5364 of this title and enacting provisions set out as notes under this section] shall be construed to prohibit the Board of Governors of the Federal Reserve System from issuing an order or rule making under section 165(a)(2)(C) of the Financial Stability Act of 2010 (12 U.S.C. 5365(a)(2)(C)), as added by this section, before the effective date described in paragraph (1).''

[For definition of ''bank holding company'' as used in section 401(d) of Pub. L. 115–174, set out above, see section 2 of Pub. L. 115–174, set out as a Definitions note below.]

CONSTRUCTION OF 2018 AMENDMENT

Pub. L. 115–174, title IV, § 401(b), May 24, 2018, 132 Stat. 1357, provided that: ''Nothing in subsection (a) [amending this section] shall be construed to limit—

''(1) the authority of the Board of Governors of the Federal Reserve System, in prescribing prudential standards under section 165 of the Financial Stability Act of 2010 (12 U.S.C. 5365) or any other law, to tailor or differentiate among companies on an individual basis or by category, taking into consideration their capital structure, riskiness, complexity, financial activities (including financial activities of their subsidiaries), size, and any other risk-related factors that the Board of Governors deems appropriate; or

''(2) the supervisory, regulatory, or enforcement authority of an appropriate Federal banking agency to further the safe and sound operation of an institution under the supervision of the appropriate Federal banking agency.''

[For definitions of ''appropriate Federal banking agency'' and ''companies'' as used in section 401(b) of Pub. L. 115–174, set out above, see section 2 of Pub. L. 115–174, set out as a Definitions note below.]

Pub. L. 115–174, title IV, § 401(g), May 24, 2018, 132 Stat. 1359, provided that: ''Nothing in this section [amending this section and sections 248, 5325, 5326, 5331, 5345, 5363, and 5364 of this title and enacting provisions set out as notes under this section] shall be construed to—

''(1) affect the legal effect of the final rule of the Board of Governors of the Federal Reserve System entitled 'Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations' (79 Fed. Reg. 17240 (March 27, 2014)) as applied to foreign banking organizations with total consolidated assets equal to or greater than $100,000,000,000; or

''(2) limit the authority of the Board of Governors of the Federal Reserve System to require the establishment of an intermediate holding company under, implement enhanced prudential standards with respect to, or tailor the regulation of a foreign banking organization with total consolidated assets equal to or greater than $100,000,000,000.''

SUPERVISORY STRESS TEST

Pub. L. 115–174, title IV, § 401(e), May 24, 2018, 132 Stat. 1359, provided that: ''Beginning on the effective date described in subsection (d)(1) [of section 401 of Pub. L. 115–174, set out above], the Board of Governors of the Federal Reserve System shall, on a periodic basis, conduct supervisory stress tests of bank holding companies with total consolidated assets equal to or greater than $100,000,000,000 and total consolidated assets of less than $250,000,000,000 to evaluate whether such bank holding companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.''

[For definition of ''bank holding companies'' as used in section 401(e) of Pub. L. 115–174, set out above, see section 2 of Pub. L. 115–174, set out as a Definitions note below.]

GLOBAL SYSTEMICALLY IMPORTANT BANK HOLDING COMPANIES

Pub. L. 115–174, title IV, § 401(f), May 24, 2018, 132 Stat. 1359, provided that: ''Any bank holding company, regardless of asset size, that has been identified as a global systemically important BHC under section 217.402 of title 12, Code of Federal Regulations, shall be considered a bank holding company with total consolidated assets equal to or greater than $250,000,000,000 with respect to the application of standards or requirements under—

''(1) this section [amending this section and sections 248, 5325, 5326, 5331, 5345, 5363, and 5364 of this title and enacting provisions set out as notes under this section];

''(2) sections 116(a), 121(a), 155(d), 163(b), 164, and 165 of the Financial Stability Act of 2010 (12 U.S.C. 5326(a), 5331(a), 5345(d), 5363(b), 5364, 5365); and

''(3) paragraph (2)(A) of the second subsection (s) (relating to assessments) of section 11 of the Federal Reserve Act (12 U.S.C. 248(s)(2)[(A)]).''

[For definition of ''bank holding company'' as used in section 401(f) of Pub. L. 115–174, set out above, see section 2 of Pub. L. 115–174, set out as a Definitions note below.]

DEFINITIONS

Pub. L. 115–174, § 2, May 24, 2018, 132 Stat. 1297, provided that: ''In this Act [see Short Title of 2018 Amendment note set out under section 1601 of Title 15, Commerce and Trade]:

''(1) APPROPRIATE FEDERAL BANKING AGENCY; COMPANY; DEPOSITORY INSTITUTION; DEPOSITORY INSTITUTION HOLDING COMPANY.—The terms 'appropriate Federal banking agency', 'company', 'depository institution', and 'depository institution holding company' have the meanings given those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(2) BANK HOLDING COMPANY.—The term 'bank holding company' has the meaning given the term in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).''

§ 5366. Early remediation requirements

(a) In general

The Board of Governors, in consultation with the Council and the Corporation, shall prescribe regulations establishing requirements to provide for the early remediation of financial distress of a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 5365(a) of this title, except that nothing in this subsection authorizes the provision of financial assistance from the Federal Government.

(b) Purpose of the early remediation requirements

The purpose of the early remediation requirements under subsection (a) shall be to establish a series of specific remedial actions to be taken by a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 5365(a) of this title that is experiencing increasing financial distress, in order to minimize the probability that the company will become insolvent and the potential harm of such insolvency to the financial stability of the United States.

(c) Remediation requirements

The regulations prescribed by the Board of Governors under subsection (a) shall—

(1) define measures of the financial condition of the company, including regulatory capital, liquidity measures, and other forward-looking indicators; and

(2) establish requirements that increase in stringency as the financial condition of the company declines, including—

(A) requirements in the initial stages of financial decline, including limits on capital distributions, acquisitions, and asset growth; and

(B) requirements at later stages of financial decline, including a capital restoration plan and capital-raising requirements, limits on transactions with affiliates, management changes, and asset sales.

(Pub. L. 111–203, title I, §166, July 21, 2010, 124 Stat. 1432.)

§ 5367. Affiliations

(a) Affiliations

Nothing in this part shall be construed to require a nonbank financial company supervised by the Board of Governors, or a company that controls a nonbank financial company supervised by the Board of Governors, to conform the activities thereof to the requirements of section 1843 of this title.

(b) Requirement

(1) In general

(A) Board authority

If a nonbank financial company supervised by the Board of Governors conducts activities other than those that are determined to be financial in nature or incidental thereto under section 1843(k) of this title, the Board of Governors may require such company to establish and conduct all or a portion of such activities that are determined to be financial in nature or incidental thereto in or through an intermediate holding company established pursuant to regulation of the Board of Governors, not later than 90 days (or such longer period as the Board of Governors may deem appropriate) after the date on which the nonbank financial company supervised by the Board of Governors is notified of the determination of the Board of Governors under this section.

(B) Necessary actions

Notwithstanding subparagraph (A), the Board of Governors shall require a nonbank financial company supervised by the Board of Governors to establish an intermediate holding company if the Board of Governors makes a determination that the establishment of such intermediate holding company is necessary to—

(i) appropriately supervise activities that are determined to be financial in nature or incidental thereto; or

(ii) to[1] ensure that supervision by the Board of Governors does not extend to the commercial activities of such nonbank financial company.

(2) Internal financial activities

For purposes of this subsection, activities that are determined to be financial in nature or incidental thereto under section 1843(k) of this title, as described in paragraph (1), shall not include internal financial activities, including internal treasury, investment, and employee benefit functions. With respect to any internal financial activity engaged in for the company or an affiliate and a non-affiliate of such company during the year prior to July 21, 2010, such company (or an affiliate that is not an intermediate holding company or subsidiary of an intermediate holding company) may continue to engage in such activity, as long as not less than 2/3 of the assets or 2/3 of the revenues generated from the activity are from or attributable to such company or an affiliate, subject to review by the Board of Governors, to determine whether engaging in such activity presents undue risk to such company or to the financial stability of the United States.

(3) Source of strength

A company that directly or indirectly controls an intermediate holding company established under this section shall serve as a source of strength to its subsidiary intermediate holding company.

(4) Parent company reports

The Board of Governors may, from time to time, require reports under oath from a company that controls an intermediate holding company, and from the appropriate officers or directors of such company, solely for purposes

[1] So in original. The word ''to'' probably should not appear.

of ensuring compliance with the provisions of this section, including assessing the ability of the company to serve as a source of strength to its subsidiary intermediate holding company pursuant to paragraph (3) and enforcing such compliance.

(5) Limited parent company enforcement

(A) In general

In addition to any other authority of the Board of Governors, the Board of Governors may enforce compliance with the provisions of this subsection that are applicable to any company described in paragraph (1) that controls an intermediate holding company under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], and such company shall be subject to such section (solely for such purposes) in the same manner and to the same extent as if such company were a bank holding company.

(B) Application of other Act

Any violation of this subsection by any company that controls an intermediate holding company may also be treated as a violation of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] for purposes of subparagraph (A).

(C) No effect on other authority

No provision of this paragraph shall be construed as limiting any authority of the Board of Governors or any other Federal agency under any other provision of law.

(c) Regulations

The Board of Governors—

(1) shall promulgate regulations to establish the criteria for determining whether to require a nonbank financial company supervised by the Board of Governors to establish an intermediate holding company under subsection (b); and

(2) may promulgate regulations to establish any restrictions or limitations on transactions between an intermediate holding company or a nonbank financial company supervised by the Board of Governors and its affiliates, as necessary to prevent unsafe and unsound practices in connection with transactions between such company, or any subsidiary thereof, and its parent company or affiliates that are not subsidiaries of such company, except that such regulations shall not restrict or limit any transaction in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods, or services.

(Pub. L. 111–203, title I, § 167, July 21, 2010, 124 Stat. 1432.)

Editorial Notes

REFERENCES IN TEXT

This part, referred to in subsec. (a), was in the original ''this subtitle'', meaning subtitle C (§§ 161–176) of title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1420, which is classified principally to this part. For complete classification of subtitle C to the Code, see Tables.

The Federal Deposit Insurance Act, referred to in subsec. (b)(5)(B), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

§ 5368. Regulations

The Board of Governors shall have authority to issue regulations to implement parts A and C and the amendments made thereunder. Except as otherwise specified in part A or C, not later than 18 months after the effective date of this Act, the Board of Governors shall issue final regulations to implement parts A and C, and the amendments made thereunder.

(Pub. L. 111–203, title I, § 168, July 21, 2010, 124 Stat. 1434.)

Editorial Notes

REFERENCES IN TEXT

Part C, referred to in text, was in the original ''subtitle C'', meaning subtitle C (§§ 161–176) of title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1420, which is classified principally to this part. For complete classification of subtitle C to the Code, see Tables.

The effective date of this Act, referred to in text, is 1 day after July 21, 2010, except as otherwise specifically provided in Pub. L. 111–203, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

§ 5369. Avoiding duplication

The Board of Governors shall take any action that the Board of Governors deems appropriate to avoid imposing requirements under this part that are duplicative of requirements applicable to bank holding companies and nonbank financial companies under other provisions of law.

(Pub. L. 111–203, title I, § 169, July 21, 2010, 124 Stat. 1434.)

Editorial Notes

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this subtitle'', meaning subtitle C (§§ 161–176) of title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1420, which is classified principally to this part. For complete classification of subtitle C to the Code, see Tables.

§ 5370. Safe harbor

(a) Regulations

The Board of Governors shall promulgate regulations on behalf of, and in consultation with, the Council setting forth the criteria for exempting certain types or classes of U.S. nonbank financial companies or foreign nonbank financial companies from supervision by the Board of Governors.

(b) Considerations

In developing the criteria under subsection (a), the Board of Governors shall take into account the factors for consideration described in subsections (a) and (b) of section 5323 of this title in determining whether a U.S. nonbank financial company or foreign nonbank financial company shall be supervised by the Board of Governors.

(c) Rule of construction

Nothing in this section shall be construed to require supervision by the Board of Governors of

a U.S. nonbank financial company or foreign nonbank financial company, if such company does not meet the criteria for exemption established under subsection (a).

(d) Revisions

(1) In general

The Board of Governors shall, in consultation with the Council, review the regulations promulgated under subsection (a), not less frequently than every 5 years, and based upon the review, the Board of Governors may revise such regulations on behalf of, and in consultation with, the Council to update as necessary the criteria set forth in such regulations.

(2) Transition period

No revisions under paragraph (1) shall take effect before the end of the 2-year period after the date of publication of such revisions in final form.

(e) Report

The Chairman of the Board of Governors and the Chairperson of the Council shall submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 30 days after the date of the issuance in final form of regulations under subsection (a), or any subsequent revision to such regulations under subsection (d), as applicable. Such report shall include, at a minimum, the rationale for exemption and empirical evidence to support the criteria for exemption.

(Pub. L. 111–203, title I, §170, July 21, 2010, 124 Stat. 1435.)

§5371. Leverage and risk-based capital requirements

(a) Definitions

For purposes of this section, the following definitions shall apply:

(1) Generally applicable leverage capital requirements

The term ''generally applicable leverage capital requirements'' means—

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 1831*o* of this title, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) Generally applicable risk-based capital requirements

The term ''generally applicable risk-based capital requirements'' means—

(A) the risk-based capital requirements, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 1831*o* of this title, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(3) Definition of depository institution holding company

The term ''depository institution holding company'' means a bank holding company or a savings and loan holding company (as those terms are defined in section 1813 of this title) that is organized in the United States, including any bank or savings and loan holding company that is owned or controlled by a foreign organization, but does not include the foreign organization.

(4) Business of insurance

The term ''business of insurance'' has the same meaning as in section 5481(3) of this title.

(5) Person regulated by a State insurance regulator

The term ''person regulated by a State insurance regulator'' has the same meaning as in section 5481(22) of this title.

(6) Regulated foreign subsidiary and regulated foreign affiliate

The terms ''regulated foreign subsidiary'' and ''regulated foreign affiliate'' mean a person engaged in the business of insurance in a foreign country that is regulated by a foreign insurance regulatory authority that is a member of the International Association of Insurance Supervisors or other comparable foreign insurance regulatory authority as determined by the Board of Governors following consultation with the State insurance regulators, including the lead State insurance commissioner (or similar State official) of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners, where the person, or its principal United States insurance affiliate, has its principal place of business or is domiciled, but only to the extent that—

(A) such person acts in its capacity as a regulated insurance entity; and

(B) the Board of Governors does not determine that the capital requirements in a specific foreign jurisdiction are inadequate.

(7) Capacity as a regulated insurance entity

The term ''capacity as a regulated insurance entity''—

(A) includes any action or activity undertaken by a person regulated by a State insurance regulator or a regulated foreign subsidiary or regulated foreign affiliate of such person, as those actions relate to the provision of insurance, or other activities necessary to engage in the business of insurance; and

(B) does not include any action or activity, including any financial activity, that is not regulated by a State insurance regulator or a foreign agency or authority and subject to State insurance capital requirements or, in the case of a regulated foreign subsidiary or regulated foreign affiliate, capital requirements imposed by a foreign insurance regulatory authority.

(b) Minimum capital requirements

(1) Minimum leverage capital requirements

The appropriate Federal banking agencies shall establish minimum leverage capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board of Governors. The minimum leverage capital requirements established under this paragraph shall not be less than the generally applicable leverage capital requirements, which shall serve as a floor for any capital requirements that the agency may require, nor quantitatively lower than the generally applicable leverage capital requirements that were in effect for insured depository institutions as of July 21, 2010.

(2) Minimum risk-based capital requirements

The appropriate Federal banking agencies shall establish minimum risk-based capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board of Governors. The minimum risk-based capital requirements established under this paragraph shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements that the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of July 21, 2010.

(3) Investments in financial subsidiaries

For purposes of this section, investments in financial subsidiaries that insured depository institutions are required to deduct from regulatory capital under section 24a of this title or section 1831w(a)(2) of this title need not be deducted from regulatory capital by depository institution holding companies or nonbank financial companies supervised by the Board of Governors, unless such capital deduction is required by the Board of Governors or the primary financial regulatory agency in the case of nonbank financial companies supervised by the Board of Governors.

(4) Effective dates and phase-in periods

(A) Debt or equity instruments on or after May 19, 2010

For debt or equity instruments issued on or after May 19, 2010, by depository institution holding companies or by nonbank financial companies supervised by the Board of Governors, this section shall be deemed to have become effective as of May 19, 2010.

(B) Debt or equity instruments issued before May 19, 2010

For debt or equity instruments issued before May 19, 2010, by depository institution holding companies or by nonbank financial companies supervised by the Board of Governors, any regulatory capital deductions required under this section shall be phased in incrementally over a period of 3 years, with the phase-in period to begin on January 1, 2013, except as set forth in subparagraph (C).

(C) Debt or equity instruments of smaller institutions

For debt or equity instruments issued before May 19, 2010, by depository institution holding companies with total consolidated assets of less than $15,000,000,000 as of December 31, 2009, or March 31, 2010, and by organizations that were mutual holding companies on May 19, 2010, the capital deductions that would be required for other institutions under this section are not required as a result of this section.

(D) Depository institution holding companies not previously supervised by the Board of Governors

For any depository institution holding company that was not supervised by the Board of Governors as of May 19, 2010, the requirements of this section, except as set forth in subparagraphs (A) and (B), shall be effective 5 years after July 21, 2010[1]

(E) Certain bank holding company subsidiaries of foreign banking organizations

For bank holding company subsidiaries of foreign banking organizations that have relied on Supervision and Regulation Letter SR-01-1 issued by the Board of Governors (as in effect on May 19, 2010), the requirements of this section, except as set forth in subparagraph (A), shall be effective 5 years after July 21, 2010.

(5) Exceptions

This section shall not apply to—

(A) debt or equity instruments issued to the United States or any agency or instrumentality thereof pursuant to the Emergency Economic Stabilization Act of 2008 [12 U.S.C. 5201 et seq.], and prior to October 4, 2010;

(B) any Federal home loan bank; or

(C) any bank holding company or savings and loan holding company that is subject to the application of appendix C to part 225 of title 12, Code of Federal Regulations (commonly known as the ''Small Bank Holding Company and Savings and Loan Holding Company Policy Statement'').

(6) Study and report on small institution access to capital

(A) Study required

The Comptroller General of the United States, after consultation with the Federal banking agencies, shall conduct a study of access to capital by smaller insured depository institutions.

[1] So in original. Probably should be followed by a period.

(B) Scope

For purposes of this study required by subparagraph (A), the term ''smaller insured depository institution'' means an insured depository institution with total consolidated assets of $5,000,000,000 or less.

(C) Report to Congress

Not later than 18 months after July 21, 2010, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report summarizing the results of the study conducted under subparagraph (A), together with any recommendations for legislative or regulatory action that would enhance the access to capital of smaller insured depository institutions, in a manner that is consistent with safe and sound banking operations.

(7) Capital requirements to address activities that pose risks to the financial system

(A) In general

Subject to the recommendations of the Council, in accordance with section 5330 of this title, the Federal banking agencies shall develop capital requirements applicable to insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board of Governors that address the risks that the activities of such institutions pose, not only to the institution engaging in the activity, but to other public and private stakeholders in the event of adverse performance, disruption, or failure of the institution or the activity.

(B) Content

Such rules shall address, at a minimum, the risks arising from—

(i) significant volumes of activity in derivatives, securitized products purchased and sold, financial guarantees purchased and sold, securities borrowing and lending, and repurchase agreements and reverse repurchase agreements;

(ii) concentrations in assets for which the values presented in financial reports are based on models rather than historical cost or prices deriving from deep and liquid 2-way markets; and

(iii) concentrations in market share for any activity that would substantially disrupt financial markets if the institution is forced to unexpectedly cease the activity.

(c) Clarification

(1) In general

In establishing the minimum leverage capital requirements and minimum risk-based capital requirements on a consolidated basis for a depository institution holding company or a nonbank financial company supervised by the Board of Governors as required under paragraphs (1) and (2) of subsection (b), the appropriate Federal banking agencies shall not be required to include, for any purpose of this section (including in any determination of consolidation), a person regulated by a State insurance regulator or a regulated foreign subsidiary or a regulated foreign affiliate of such person engaged in the business of insurance, to the extent that such person acts in its capacity as a regulated insurance entity.

(2) Rule of construction on Board's authority

This subsection shall not be construed to prohibit, modify, limit, or otherwise supersede any other provision of Federal law that provides the Board of Governors authority to issue regulations and orders relating to capital requirements for depository institution holding companies or nonbank financial companies supervised by the Board of Governors.

(3) Rule of construction on accounting principles

(A) In general

A depository institution holding company or nonbank financial company supervised by the Board of Governors of the Federal Reserve that is also a person regulated by a State insurance regulator that is engaged in the business of insurance that files financial statements with a State insurance regulator or the National Association of Insurance Commissioners utilizing only Statutory Accounting Principles in accordance with State law, shall not be required by the Board under the authority of this section or the authority of the Home Owners' Loan Act [12 U.S.C. 1461 et seq.] to prepare such financial statements in accordance with Generally Accepted Accounting Principles.

(B) Preservation of authority

Nothing in subparagraph (A) shall limit the authority of the Board under any other applicable provision of law to conduct any regulatory or supervisory activity of a depository institution holding company or non-bank financial company supervised by the Board of Governors, including the collection or reporting of any information on an entity or group-wide basis. Nothing in this paragraph shall excuse the Board from its obligations to comply with section 5361(a) of this title and section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)), as appropriate.

(Pub. L. 111–203, title I, §171, July 21, 2010, 124 Stat. 1435; Pub. L. 113–250, §2(a), Dec. 18, 2014, 128 Stat. 2886; Pub. L. 113–279, §2, Dec. 18, 2014, 128 Stat. 3017; Pub. L. 114–94, div. G, title LXXXVII, §87001, Dec. 4, 2015, 129 Stat. 1798; Pub. L. 115–174, title II, §207(d), May 24, 2018, 132 Stat. 1312.)

Editorial Notes

REFERENCES IN TEXT

The Emergency Economic Stabilization Act of 2008, referred to in subsec. (b)(5)(A), is div. A of Pub. L. 110–343, Oct. 3, 2008, 122 Stat. 3765, which is classified principally to chapter 52 (§5201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of this title and Tables.

The Home Owners' Loan Act, referred to in subsec. (c)(3)(A), is act June 13, 1933, ch. 64, 48 Stat. 128, which

is classified generally to chapter 12 (§ 1461 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2018—Subsec. (b)(5)(C). Pub. L. 115–174 added subpar. (C) and struck out former subpar. (C) which read as follows: ''any bank holding company or savings and loan holding company having less than $1,000,000,000 in total consolidated assets that complies with the requirements of the Small Bank Holding Company Policy Statement on Assessment of Financial and Managerial Factors of the Board of Governors (12 CFR part 225 appendix C), as the requirements of such Policy Statement are amended pursuant to section 1 of an Act entitled 'To enhance the ability of community financial institutions to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes'.''

2015—Subsec. (b)(4)(C). Pub. L. 114–94 inserted ''or March 31, 2010,'' after ''December 31, 2009,''.

2014—Subsec. (a)(4) to (7). Pub. L. 113–279, § 2(1), added pars. (4) to (7).

Subsec. (b)(5)(C). Pub. L. 113–250 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''any small bank holding company that is subject to the Small Bank Holding Company Policy Statement of the Board of Governors, as in effect on May 19, 2010.''

Subsec. (c). Pub. L. 113–279, § 2(2), added subsec. (c).

Statutory Notes and Related Subsidiaries

CAPITAL SIMPLIFICATION FOR QUALIFYING COMMUNITY BANKS

Pub. L. 115–174, title II, § 201, May 24, 2018, 132 Stat. 1306, provided that:

''(a) DEFINITIONS.—In this section:

''(1) COMMUNITY BANK LEVERAGE RATIO.—The term 'Community Bank Leverage Ratio' means the ratio of the tangible equity capital of a qualifying community bank, as reported on the qualifying community bank's applicable regulatory filing with the qualifying community bank's appropriate Federal banking agency, to the average total consolidated assets of the qualifying community bank, as reported on the qualifying community bank's applicable regulatory filing with the qualifying community bank's appropriate Federal banking agency.

''(2) GENERALLY APPLICABLE LEVERAGE CAPITAL REQUIREMENTS; GENERALLY APPLICABLE RISK-BASED CAPITAL REQUIREMENTS.—The terms 'generally applicable leverage capital requirements' and 'generally applicable risk-based capital requirements' have the meanings given those terms in section 171(a) of the Financial Stability Act of 2010 (12 U.S.C. 5371(a)).

''(3) QUALIFYING COMMUNITY BANK.—

''(A) ASSET THRESHOLD.—The term 'qualifying community bank' means a depository institution or depository institution holding company with total consolidated assets of less than $10,000,000,000.

''(B) RISK PROFILE.—The appropriate Federal banking agencies may determine that a depository institution or depository institution holding company (or a class of depository institutions or depository institution holding companies) described in subparagraph (A) is not a qualifying community bank based on the depository institution's or depository institution holding company's risk profile, which shall be based on consideration of—

''(i) off-balance sheet exposures;

''(ii) trading assets and liabilities;

''(iii) total notional derivatives exposures; and

''(iv) such other factors as the appropriate Federal banking agencies determine appropriate.

''(b) COMMUNITY BANK LEVERAGE RATIO.—The appropriate Federal banking agencies shall, through notice and comment rule making under section 553 of title 5, United States Code—

''(1) develop a Community Bank Leverage Ratio of not less than 8 percent and not more than 10 percent for qualifying community banks; and

''(2) establish procedures for treatment of a qualifying community bank that has a Community Bank Leverage Ratio that falls below the percentage developed under paragraph (1) after exceeding the percentage developed under paragraph (1).

''(c) CAPITAL COMPLIANCE.—

''(1) IN GENERAL.—Any qualifying community bank that exceeds the Community Bank Leverage Ratio developed under subsection (b)(1) shall be considered to have met—

''(A) the generally applicable leverage capital requirements and the generally applicable risk-based capital requirements;

''(B) in the case of a qualifying community bank that is a depository institution, the capital ratio requirements that are required in order to be considered well capitalized under section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831*o*) and any regulation implementing that section; and

''(C) any other capital or leverage requirements to which the qualifying community bank is subject.

''(2) EXISTING AUTHORITIES.—Nothing in paragraph (1) shall limit the authority of the appropriate Federal banking agencies as in effect on the date of enactment of this Act [May 24, 2018].

''(d) CONSULTATION.—The appropriate Federal banking agencies shall—

''(1) consult with the applicable State bank supervisors in carrying out this section; and

''(2) notify the applicable State bank supervisor of any qualifying community bank that it supervises that exceeds, or does not exceed after previously exceeding, the Community Bank Leverage ratio developed under subsection (b)(1).''

[For definitions of ''appropriate Federal banking agency'', ''depository institution'', and ''depository institution holding company'', as used in section 201 of Pub. L. 115–174, set out above, see section 2 of Pub. L. 115–174, set out as a note under section 5365 of this title.]

SMALL BANK HOLDING COMPANY POLICY STATEMENT

Pub. L. 115–174, title II, § 207(a)–(c), May 24, 2018, 132 Stat. 1312, provided that:

''(a) DEFINITIONS.—In this section [enacting this note and amending this section]:

''(1) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(2) SAVINGS AND LOAN HOLDING COMPANY.—The term 'savings and loan holding company' has the meaning given the term in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).

''(b) CHANGES REQUIRED TO SMALL BANK HOLDING COMPANY POLICY STATEMENT ON ASSESSMENT OF FINANCIAL AND MANAGERIAL FACTORS.—Not later than 180 days after the date of enactment of this Act [May 24, 2018], the Board shall revise appendix C to part 225 of title 12, Code of Federal Regulations (commonly known as the 'Small Bank Holding Company and Savings and Loan Holding Company Policy Statement'), to raise the consolidated asset threshold under that appendix from $1,000,000,000 to $3,000,000,000 for any bank holding company or savings and loan holding company that—

''(1) is not engaged in significant nonbanking activities either directly or through a nonbank subsidiary;

''(2) does not conduct significant off-balance sheet activities (including securitization and asset management or administration) either directly or through a nonbank subsidiary; and

''(3) does not have a material amount of debt or equity securities outstanding (other than trust preferred securities) that are registered with the Securities and Exchange Commission.

''(c) EXCLUSIONS.—The Board may exclude any bank holding company or savings and loan holding company, regardless of asset size, from the revision under subsection (b) if the Board determines that such action is warranted for supervisory purposes.''

[For definition of ''bank holding company'' as used in section 207(a)–(c) of Pub. L. 115–174, set out above, see

section 2 of Pub. L. 115–174, set out as a note under section 5365 of this title.]

CHANGES REQUIRED TO SMALL BANK HOLDING COMPANY POLICY STATEMENT ON ASSESSMENT OF FINANCIAL AND MANAGERIAL FACTORS

Pub. L. 113–250, Dec. 18, 2014, 128 Stat. 2886, provided that:

''SECTION 1. CHANGES REQUIRED TO SMALL BANK HOLDING COMPANY POLICY STATEMENT ON ASSESSMENT OF FINANCIAL AND MANAGERIAL FACTORS.

''(a) IN GENERAL.—Before the end of the 6-month period beginning on the date of the enactment of this Act [Dec. 18, 2014], the Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the 'Board') shall publish in the Federal Register proposed revisions to the Small Bank Holding Company Policy Statement on Assessment of Financial and Managerial Factors (12 CFR part 225 appendix C) that provide that the policy shall apply to bank holding companies and savings and loan holding companies which have pro forma consolidated assets of less than $1,000,000,000 and that—

''(1) are not engaged in significant nonbanking activities either directly or through a nonbank subsidiary;

''(2) do not conduct significant off-balance sheet activities (including securitization and asset management or administration) either directly or through a nonbank subsidiary; and

''(3) do not have a material amount of debt or equity securities outstanding (other than trust preferred securities) that are registered with the Securities and Exchange Commission.

''(b) EXCLUSIONS.—The Board may exclude any bank holding company or savings and loan holding company, regardless of asset size, from the policy statement under subsection (a) if the Board determines that such action is warranted for supervisory purposes.

''SEC. 2. CONFORMING AMENDMENT.

''(a) IN GENERAL.—[Amended this section.]

''(b) TRANSITION PERIOD.—Any small bank holding company that was excepted from the provisions of section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act [12 U.S.C. 5371] pursuant to subparagraph (C) of section 171(b)(5) (as such subparagraph was in effect on the day before the date of enactment of this Act [Dec. 18, 2014]), and any small savings and loan holding company that would have been excepted from the provisions of section 171 pursuant to subparagraph (C) [of section 171(b)(5)] (as such subparagraph was in effect on the day before the date of enactment of this Act) if it had been a small bank holding company, shall be excepted from the provisions of section 171 until the effective date of the Small Bank Holding Company Policy Statement issued by the Board as required by section 1 of this Act.

''SEC. 3. DEFINITIONS.

''For the purposes of this Act:

''(a) BANK HOLDING COMPANY.—The term 'bank holding company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

''(b) SAVINGS AND LOAN HOLDING COMPANY.—The term 'savings and loan holding company' has the same meaning as in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).''

§ 5372. Rule of construction

Nothing in this Act shall be construed to limit or curtail the Corporation's current authority to examine or bring enforcement actions with respect to any insured depository institution or institution-affiliated party.

(Pub. L. 111–203, title I, § 172(c), July 21, 2010, 124 Stat. 1439.)

Editorial Notes

REFERENCES IN TEXT

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

§ 5373. International policy coordination

(a) By the President

The President, or a designee of the President, may coordinate through all available international policy channels, similar policies as those found in United States law relating to limiting the scope, nature, size, scale, concentration, and interconnectedness of financial companies, in order to protect financial stability and the global economy.

(b) By the Council

The Chairperson of the Council, in consultation with the other members of the Council, shall regularly consult with the financial regulatory entities and other appropriate organizations of foreign governments or international organizations on matters relating to systemic risk to the international financial system.

(c) By the Board of Governors and the Secretary

The Board of Governors and the Secretary shall consult with their foreign counterparts and through appropriate multilateral organizations to encourage comprehensive and robust prudential supervision and regulation for all highly leveraged and interconnected financial companies.

(Pub. L. 111–203, title I, § 175, July 21, 2010, 124 Stat. 1442.)

§ 5374. Rule of construction

No regulation or standard imposed under this subchapter may be construed in a manner that would lessen the stringency of the requirements of any applicable primary financial regulatory agency or any other Federal or State agency that are otherwise applicable. This subchapter, and the rules and regulations or orders prescribed pursuant to this subchapter, do not divest any such agency of any authority derived from any other applicable law.

(Pub. L. 111–203, title I, § 176, July 21, 2010, 124 Stat. 1442.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1391, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 5301 of this title and Tables.

SUBCHAPTER II—ORDERLY LIQUIDATION AUTHORITY

§ 5381. Definitions

(a) In general

In this subchapter, the following definitions shall apply:

(1) Administrative expenses of the receiver

The term ''administrative expenses of the receiver'' includes—

(A) the actual, necessary costs and expenses incurred by the Corporation as receiver for a covered financial company in liquidating a covered financial company; and

(B) any obligations that the Corporation as receiver for a covered financial company determines are necessary and appropriate to facilitate the smooth and orderly liquidation of the covered financial company.

(2) Bankruptcy Code

The term ''Bankruptcy Code'' means title 11.

(3) Bridge financial company

The term ''bridge financial company'' means a new financial company organized by the Corporation in accordance with section 5390(h) of this title for the purpose of resolving a covered financial company.

(4) Claim

The term ''claim'' means any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(5) Company

The term ''company'' has the same meaning as in section 1841(b) of this title, except that such term includes any company described in paragraph (11), the majority of the securities of which are owned by the United States or any State.

(6) Court

The term ''Court'' means the United States District Court for the District of Columbia, unless the context otherwise requires.

(7) Covered broker or dealer

The term ''covered broker or dealer'' means a covered financial company that is a broker or dealer that—

(A) is registered with the Commission under section 78*o*(b) of title 15; and

(B) is a member of SIPC.

(8) Covered financial company

The term ''covered financial company''—

(A) means a financial company for which a determination has been made under section 5383(b) of this title; and

(B) does not include an insured depository institution.

(9) Covered subsidiary

The term ''covered subsidiary'' means a subsidiary of a covered financial company, other than—

(A) an insured depository institution;

(B) an insurance company; or

(C) a covered broker or dealer.

(10) Definitions relating to covered brokers and dealers

The terms ''customer'', ''customer name securities'', ''customer property'', and ''net equity'' in the context of a covered broker or dealer, have the same meanings as in section 78*lll* of title 15.

(11) Financial company

The term ''financial company'' means any company that—

(A) is incorporated or organized under any provision of Federal law or the laws of any State;

(B) is—

(i) a bank holding company, as defined in section 1841(a) of this title;

(ii) a nonbank financial company supervised by the Board of Governors;

(iii) any company that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 1843(k) of this title other than a company described in clause (i) or (ii); or

(iv) any subsidiary of any company described in any of clauses (i) through (iii) that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 1843(k) of this title (other than a subsidiary that is an insured depository institution or an insurance company); and

(C) is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), a governmental entity, or a regulated entity, as defined under section 4502(20) of this title.

(12) Fund

The term ''Fund'' means the Orderly Liquidation Fund established under section 5390(n) of this title.

(13) Insurance company

The term ''insurance company'' means any entity that is—

(A) engaged in the business of insurance;

(B) subject to regulation by a State insurance regulator; and

(C) covered by a State law that is designed to specifically deal with the rehabilitation, liquidation, or insolvency of an insurance company.

(14) Nonbank financial company

The term ''nonbank financial company'' has the same meaning as in section 5311(a)(4)(C) of this title.

(15) Nonbank financial company supervised by the Board of Governors

The term ''nonbank financial company supervised by the Board of Governors'' has the same meaning as in section 5311(a)(4)(D) of this title.

(16) SIPC

The term ''SIPC'' means the Securities Investor Protection Corporation.