

Editorial Notes

REFERENCES IN TEXT

This title, where footnoted in text, is title III of Pub. L. 111–203, July 21, 2010, 124 Stat. 1520, known as the Enhancing Financial Institution Safety and Soundness Act of 2010, which enacted this subchapter and sections 4b and 16 of this title, amended sections 1, 11, 248, 461, 481, 482, 1438, 1462, 1462a, 1463, to 1464, 1466a, 1467, 1467a, 1468, 1468a, to 1468b, 1470, 1701c, 1701p–1, 1708, 1757, 1785, 1786, 1787, 1812, 1813, 1817, 1818, 1820, 1821, 1823, 1828, 1829, 1831e, 1831j, 1833b, 1833e, 1834, 1841, 1843, 1844, 1861, 1867, 1881, 1882, 1884, 1972, 2709, 2902, 2905, 3206 to 3208, 3332, 4515, and 4517 of this title, section 906 of Title 2, The Congress, sections 78c, 78l, 78o–5, and 78w of Title 15, Commerce and Trade, sections 212, 657, 981, 982, 1006, 1014, and 1032 of Title 18, Crimes and Criminal Procedure, sections 321 and 714 of Title 31, Money and Finance, section 41501 of Title 34, Crime Control and Law Enforcement, sections 4003 and 8105 of Title 42, The Public Health and Welfare, and section 3502 of Title 44, Public Printing and Documents, repealed section 1441a of this title, enacted provisions set out as notes under sections 1, 16, 1438, 1787, 1812, 1817, and 1821 of this title and section 906 of Title 2, and amended provisions set out as notes under sections 1437, 1463, 1464, 1467a, 1707, 1812, and 1818 of this title. For complete classification of title III to the Code, see Short title note set out under section 5301 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

PART A—TRANSFER OF POWERS AND DUTIES

§ 5411. Transfer date**(a) Transfer date**

Except as provided in subsection (b), the term “transfer date” means the date that is 1 year after July 21, 2010.

(b) Extension permitted**(1) Notice required**

The Secretary, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the Board of Governors, and the Chairperson of the Corporation, may extend the period under subsection (a) and designate a transfer date that is not later than 18 months after July 21, 2010, if the Secretary transmits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(A) a written determination that commencement of the orderly process to implement this title¹ is not feasible by the date that is 1 year after July 21, 2010;

(B) an explanation of why an extension is necessary to commence the process of orderly implementation of this title;¹

(C) the transfer date designated under this subsection; and

(D) a description of the steps that will be taken to initiate the process of an orderly and timely implementation of this title¹ within the extended time period.

¹ See References in Text note below.

(2) Publication of notice

Not later than 270 days after July 21, 2010, the Secretary shall publish in the Federal Register notice of any transfer date designated under paragraph (1).

(Pub. L. 111–203, title III, § 311, July 21, 2010, 124 Stat. 1520.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in subsec. (b)(1)(A), (B), (D), is title III of Pub. L. 111–203, July 21, 2010, 124 Stat. 1520, known as the Enhancing Financial Institution Safety and Soundness Act of 2010, which enacted this subchapter and sections 4b and 16 of this title, amended sections 1, 11, 248, 461, 481, 482, 1438, 1462, 1462a, 1463, to 1464, 1466a, 1467, 1467a, 1468, 1468a, to 1468b, 1470, 1701c, 1701p–1, 1708, 1757, 1785, 1786, 1787, 1812, 1813, 1817, 1818, 1820, 1821, 1823, 1828, 1829, 1831e, 1831j, 1833b, 1833e, 1834, 1841, 1843, 1844, 1861, 1867, 1881, 1882, 1884, 1972, 2709, 2902, 2905, 3206 to 3208, 3332, 4515, and 4517 of this title, section 906 of Title 2, The Congress, sections 78c, 78l, 78o–5, and 78w of Title 15, Commerce and Trade, sections 212, 657, 981, 982, 1006, 1014, and 1032 of Title 18, Crimes and Criminal Procedure, sections 321 and 714 of Title 31, Money and Finance, section 41501 of Title 34, Crime Control and Law Enforcement, sections 4003 and 8105 of Title 42, The Public Health and Welfare, and section 3502 of Title 44, Public Printing and Documents, repealed section 1441a of this title, enacted provisions set out as notes under sections 1, 16, 1438, 1787, 1812, 1817, and 1821 of this title and section 906 of Title 2, and amended provisions set out as notes under sections 1437, 1463, 1464, 1467a, 1707, 1812, and 1818 of this title. For complete classification of title III to the Code, see Short title note set out under section 5301 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

§ 5412. Powers and duties transferred**(a) Effective date**

This section, and the amendments made by this section, shall take effect on the transfer date.

(b) Functions of the Office of Thrift Supervision**(1) Savings and loan holding company functions transferred****(A) Transfer of functions**

There are transferred to the Board of Governors all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision (including the authority to issue orders) relating to—

(i) the supervision of—

(I) any savings and loan holding company; and

(II) any subsidiary (other than a depository institution) of a savings and loan holding company; and

(ii) all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings and loan holding companies.

(B) Powers, authorities, rights, and duties

The Board of Governors shall succeed to all powers, authorities, rights, and duties

that were vested in the Office of Thrift Supervision and the Director of the Office of Thrift Supervision on the day before the transfer date relating to the functions and authority transferred under subparagraph (A).

(2) All other functions transferred

(A) Board of Governors

All rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision under section 1468 of this title relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders and under section 1464(q) of this title relating to tying arrangements is transferred to the Board of Governors.

(B) Comptroller of the Currency

Except as provided in paragraph (1) and subparagraph (A)—

(i) there are transferred to the Office of the Comptroller of the Currency and the Comptroller of the Currency—

(I) all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision, respectively, relating to Federal savings associations; and

(II) all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision, respectively, relating to savings associations; and

(ii) the Office of the Comptroller of the Currency and the Comptroller of the Currency shall succeed to all powers, authorities, rights, and duties that were vested in the Office of Thrift Supervision and the Director of the Office of Thrift Supervision, respectively, on the day before the transfer date relating to the functions and authority transferred under clause (i).

(C) Corporation

Except as provided in paragraph (1) and subparagraphs (A) and (B)—

(i) all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to State savings associations are transferred to the Corporation; and

(ii) the Corporation shall succeed to all powers, authorities, rights, and duties that were vested in the Office of Thrift Supervision and the Director of the Office of Thrift Supervision on the day before the transfer date relating to the functions transferred under clause (i).

(c) Omitted

(d) Consumer protection

Nothing in this section may be construed to limit or otherwise affect the transfer of powers under title X.¹

(Pub. L. 111-203, title III, §312, July 21, 2010, 124 Stat. 1521.)

Editorial Notes

REFERENCES IN TEXT

Title X, referred to in subsec. (d), is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted subchapter V (§5481 et seq.) of this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Section is comprised of section 312 of Pub. L. 111-203. Subsec. (c) of section 312 of Pub. L. 111-203 amended section 1813 of this title.

§ 5413. Abolishment

Effective 90 days after the transfer date, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.

(Pub. L. 111-203, title III, §313, July 21, 2010, 124 Stat. 1523.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

§ 5414. Savings provisions

(a) Office of Thrift Supervision

(1) Existing rights, duties, and obligations not affected

Sections 5412(b) and 5413 of this title shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that existed on the day before the transfer date.

(2) Continuation of suits

This title¹ shall not abate any action or proceeding commenced by or against the Director of the Office of Thrift Supervision or the Office of Thrift Supervision before the transfer date, except that—

(A) for any action or proceeding arising out of a function of the Office of Thrift Supervision or the Director of the Office of Thrift Supervision transferred to the Board of Governors by this title,¹ the Board of Governors shall be substituted for the Office of Thrift Supervision or the Director of the Office of Thrift Supervision as a party to the action or proceeding on and after the transfer date;

(B) for any action or proceeding arising out of a function of the Office of Thrift Supervision or the Director of the Office of Thrift Supervision transferred to the Office of the Comptroller of the Currency or the Comptroller of the Currency by this title,¹ the Office of the Comptroller of the Currency or the Comptroller of the Currency shall be substituted for the Office of Thrift

¹ See References in Text note below.

¹ See References in Text note below.

Supervision or the Director of the Office of Thrift Supervision, as the case may be, as a party to the action or proceeding on and after the transfer date; and

(C) for any action or proceeding arising out of a function of the Office of Thrift Supervision or the Director of the Office of Thrift Supervision transferred to the Corporation by this title,¹ the Corporation shall be substituted for the Office of Thrift Supervision or the Director of the Office of Thrift Supervision as a party to the action or proceeding on and after the transfer date.

(b) Continuation of existing OTS orders, resolutions, determinations, agreements, regulations, etc.

All orders, resolutions, determinations, agreements, and regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, that have been issued, made, prescribed, or allowed to become effective by the Office of Thrift Supervision or the Director of the Office of Thrift Supervision, or by a court of competent jurisdiction, in the performance of functions that are transferred by this title¹ and that are in effect on the day before the transfer date, shall continue in effect according to the terms of such orders, resolutions, determinations, agreements, and regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, and shall be enforceable by or against—

(1) the Board of Governors, in the case of a function of the Office of Thrift Supervision or the Director of the Office of Thrift Supervision transferred to the Board of Governors, until modified, terminated, set aside, or superseded in accordance with applicable law by the Board of Governors, by any court of competent jurisdiction, or by operation of law;

(2) the Office of the Comptroller of the Currency or the Comptroller of the Currency, in the case of a function of the Office of Thrift Supervision or the Director of the Office of Thrift Supervision transferred to the Office of the Comptroller of the Currency or the Comptroller of the Currency, respectively, until modified, terminated, set aside, or superseded in accordance with applicable law by the Office of the Comptroller of the Currency or the Comptroller of the Currency, by any court of competent jurisdiction, or by operation of law; and

(3) the Corporation, in the case of a function of the Office of Thrift Supervision or the Director of the Office of Thrift Supervision transferred to the Corporation, until modified, terminated, set aside, or superseded in accordance with applicable law by the Corporation, by any court of competent jurisdiction, or by operation of law.

(c) Identification of regulations continued

(1) By the Board of Governors

Not later than the transfer date, the Board of Governors shall—

(A) identify the regulations continued under subsection (b) that will be enforced by the Board of Governors; and

(B) publish a list of the regulations identified under subparagraph (A) in the Federal Register.

(2) By Office of the Comptroller of the Currency

Not later than the transfer date, the Office of the Comptroller of the Currency shall—

(A) after consultation with the Corporation, identify the regulations continued under subsection (b) that will be enforced by the Office of the Comptroller of the Currency; and

(B) publish a list of the regulations identified under subparagraph (A) in the Federal Register.

(3) By the Corporation

Not later than the transfer date, the Corporation shall—

(A) after consultation with the Office of the Comptroller of the Currency, identify the regulations continued under subsection (b) that will be enforced by the Corporation; and

(B) publish a list of the regulations identified under subparagraph (A) in the Federal Register.

(d) Status of regulations proposed or not yet effective

(1) Proposed regulations

Any proposed regulation of the Office of Thrift Supervision, which the Office of Thrift Supervision in performing functions transferred by this title,¹ has proposed before the transfer date but has not published as a final regulation before such date, shall be deemed to be a proposed regulation of the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, according to the terms of the proposed regulation.

(2) Regulations not yet effective

Any interim or final regulation of the Office of Thrift Supervision, which the Office of Thrift Supervision, in performing functions transferred by this title,¹ has published before the transfer date but which has not become effective before that date, shall become effective as a regulation of the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, according to the terms of the interim or final regulation, unless modified, terminated, set aside, or superseded in accordance with applicable law by the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, by any court of competent jurisdiction, or by operation of law.

(Pub. L. 111-203, title III, §316, July 21, 2010, 124 Stat. 1524.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in subsecs. (a)(2), (b), and (d), is title III of Pub. L. 111-203, July 21, 2010, 124 Stat. 1520, known as the Enhancing Financial Institution Safety and Soundness Act of 2010, which enacted this subchapter and sections 4b and 16 of this title, amended sections 1, 11, 248, 461, 481, 482, 1438, 1462, 1462a, 1463, to

1464, 1466a, 1467, 1467a, 1468, 1468a, to 1468b, 1470, 1701c, 1701p-1, 1708, 1757, 1785, 1786, 1787, 1812, 1813, 1817, 1818, 1820, 1821, 1823, 1828, 1829, 1831e, 1831j, 1833b, 1833e, 1834, 1841, 1843, 1844, 1861, 1867, 1881, 1882, 1884, 1972, 2709, 2902, 2905, 3206 to 3208, 3332, 4515, and 4517 of this title, section 906 of Title 2, The Congress, sections 78c, 78f, 78o-5, and 78w of Title 15, Commerce and Trade, sections 212, 657, 981, 982, 1006, 1014, and 1032 of Title 18, Crimes and Criminal Procedure, sections 321 and 714 of Title 31, Money and Finance, section 41501 of Title 34, Crime Control and Law Enforcement, sections 4003 and 8105 of Title 42, The Public Health and Welfare, and section 3502 of Title 44, Public Printing and Documents, repealed section 1441a of this title, enacted provisions set out as notes under sections 1, 16, 1438, 1787, 1812, 1817, and 1821 of this title and section 906 of Title 2, and amended provisions set out as notes under sections 1437, 1463, 1464, 1467a, 1707, 1812, and 1818 of this title. For complete classification of title III to the Code, see Short title note set out under section 5301 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

§ 5415. References in Federal law to Federal banking agencies

On and after the transfer date, any reference in Federal law to the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, in connection with any function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision transferred under section 5412(b) of this title or any other provision of this subtitle, shall be deemed to be a reference to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors, as appropriate and consistent with the amendments made in subtitle E.

(Pub. L. 111-203, title III, § 317, July 21, 2010, 124 Stat. 1526.)

Editorial Notes

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle A (§§ 311-319) of title III of Pub. L. 111-203, July 21, 2010, 124 Stat. 1520, which enacted this part and sections 4b and 16 of this title, amended sections 1, 11, 248, 481, 482, 1813, and 1820 of this title and section 3502 of Title 44, Public Printing and Documents, and enacted provisions set out as notes under sections 1 and 16 of this title. For complete classification of subtitle A to the Code, see Tables.

Subtitle E, referred to in text, is subtitle E (§§ 351-378) of title III of Pub. L. 111-203, July 21, 2010, 124 Stat. 1546. For complete classification of subtitle E to the Code, see Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

§ 5416. Contracting and leasing authority

Notwithstanding chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e),

3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 or any other provision of law (except the full and open competition requirements of the Competition in Contracting Act), the Office of the Comptroller of the Currency may—

(1) enter into and perform contracts, execute instruments, and acquire real property (or property interest) as the Comptroller deems necessary to carry out the duties and responsibilities of the Office of the Comptroller of the Currency; and

(2) hold, maintain, sell, lease, or otherwise dispose of the property (or property interest) acquired under paragraph (1).

(Pub. L. 111-203, title III, § 319, July 21, 2010, 124 Stat. 1528.)

Editorial Notes

REFERENCES IN TEXT

The Competition in Contracting Act, referred to in text, probably means the Competition in Contracting Act of 1984, which is title VII of Pub. L. 98-369, div. B, July 18, 1984, 98 Stat. 1175. For complete classification of this Act to the Code, see Short Title of 1984 Act note set out under section 101 of Title 41, Public Contracts, and Tables.

CODIFICATION

In text, “chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

PART B—TRANSITIONAL PROVISIONS

§ 5431. Interim use of funds, personnel, and property of the Office of Thrift Supervision

(a) In general

Before the transfer date, the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors shall—

(1) consult and cooperate with the Office of Thrift Supervision to facilitate the orderly transfer of functions to the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors in accordance with this title;¹

(2) determine jointly, from time to time—

(A) the amount of funds necessary to pay any expenses associated with the transfer of functions (including expenses for personnel, property, and administrative services) during the period beginning on July 21, 2010, and ending on the transfer date;

(B) which personnel are appropriate to facilitate the orderly transfer of functions by this title;¹ and

¹ See References in Text note below.