

§ 4711. Investment of receipts and proceeds**(a) Establishment of account**

Any dividends on equity investments and proceeds from the disposition of investments, deposits, or credit union shares that are received by the Fund as a result of assistance provided pursuant to section 4707 or 4712 of this title, and any fees received pursuant to section 4708(f) of this title shall be deposited and accredited to an account of the Fund in the United States Treasury (hereafter in this section referred to as “the account”) established to carry out the purpose of this subchapter.

(b) Investments

Upon request of the Administrator, the Secretary of the Treasury shall invest amounts deposited in the account in public debt securities with maturities suitable to the needs of the Fund, as determined by the Administrator, and bearing interest at rates determined by the Secretary of the Treasury, comparable to current market yields on outstanding marketable obligations of the United States of similar maturities.

(c) Availability

Amounts deposited into the account and interest earned on such amounts pursuant to this section shall be available to the Fund until expended.

(Pub. L. 103-325, title I, § 112, Sept. 23, 1994, 108 Stat. 2177.)

§ 4712. Capitalization assistance to enhance liquidity**(a) Assistance****(1) In general**

The Fund may provide assistance for the purpose of providing capital to organizations to purchase loans or otherwise enhance the liquidity of community development financial institutions, if—

(A) the primary purpose of such organizations is to promote community development; and

(B) any assistance received is matched with funds—

(i) from sources other than the Federal Government;

(ii) on the basis of not less than one dollar for each dollar provided by the Fund; and

(iii) that are comparable in form and value to the assistance provided by the Fund.

(2) Limitation on other assistance

An organization that receives assistance under this section may not receive other financial or technical assistance under this subchapter.

(3) Construction of Federal Government funds

For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974 [42 U.S.C. 5305(a)(9)], funds provided pursuant to such Act shall be considered to be Federal Government funds.

(b) Selection

The selection of organizations to receive assistance under this section shall be at the discretion of the Fund and in accordance with criteria established by the Fund. In establishing such criteria, the Fund shall take into account the criteria contained in sections 4704(b) and 4706 of this title, as appropriate.

(c) Amount of assistance

The Fund may provide a total of not more than \$5,000,000 of assistance to an organization or its subsidiaries or affiliates under this section during any 3-year period. Assistance may be provided in a lump sum or over a period of time, as determined by the Fund.

(d) Audit and report requirements

Organizations that receive assistance from the Fund in accordance with this section shall—

(1) submit to the Fund, not less than once in every 18-month period, financial statements audited by an independent certified public accountant, as part of the report required by paragraph (2);

(2) submit an annual report on its activities; and

(3) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

(e) Limitations on liability**(1) Liability of Fund**

The liability of the Fund and the United States Government arising out of the provision of assistance to any organization in accordance with this section shall be limited to the amount of such assistance. The Fund shall be exempt from any assessments and any other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, or territory. Nothing in this paragraph shall affect the application of Federal tax law.

(2) Liability of Government

This section does not oblige the Federal Government, either directly or indirectly, to provide any funds to any organization assisted pursuant to this section, or to honor, reimburse, or otherwise guarantee any obligation or liability of such an organization. This section shall not be construed to imply that any such organization or any obligations or securities of any such organization are backed by the full faith and credit of the United States.

(f) Use of proceeds

Any proceeds from the sale of loans by an organization assisted under this section shall be used by the seller for community development purposes.

(Pub. L. 103-325, title I, § 113, Sept. 23, 1994, 108 Stat. 2178.)

Editorial Notes**REFERENCES IN TEXT**

The Housing and Community Development Act of 1974, referred to in subsec. (a)(3), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633. For complete classification of this Act to the Code, see Short Title note set out under sec-

tion 5301 of Title 42, The Public Health and Welfare, and Tables.

§ 4713. Incentives for depository institution participation

(a) Function of Administrator

(1) In general

Of any funds appropriated pursuant to the authorization in section 4718(a) of this title, the funds made available for use in carrying out this section in accordance with section 4718(a)(4) of this title shall be administered by the Administrator of the Fund, in consultation with—

(A) the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) and the National Credit Union Administration;

(B) the individuals named pursuant to clauses (ii) and (iv) of section 4703(d)(2)(G) of this title; and

(C) any other representatives of insured depository institutions or other persons as the Administrator may determine to be appropriate.

(2) Applicability of Bank Enterprise Act of 1991

Subject to subsection (b) and the consultation requirement of paragraph (1)—

(A) section 233 of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a] shall be applicable to the Administrator, for purposes of this section, in the same manner and to the same extent that such section is applicable to the Community Enterprise Assessment Credit Board;

(B) the Administrator shall, for purposes of carrying out this section and section 233 of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a]—

(i) have all powers and rights of the Community Enterprise Assessment Credit Board under section 233 of the Bank Enterprise Act of 1991 to administer and enforce any provision of such section 233 which is applicable to the Administrator under this section; and

(ii) shall be subject to the same duties and restrictions imposed on the Community Enterprise Assessment Credit Board; and

(C) the Administrator shall—

(i) have all powers and rights of an appropriate Federal banking agency under section 233(b)(2) of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(b)(2)] to approve or disapprove the designation of qualified distressed communities for purposes of this section and provide information and assistance with respect to any such designation; and

(ii) shall be subject to the same duties imposed on the appropriate Federal banking agencies under such section 233(b)(2).

(3) Awards

The Administrator shall determine the amount of assessment credits, and shall make awards of those credits.

(4) Regulations and guidelines

The Administrator may prescribe such regulations and issue such guidelines as the Ad-

ministrator determines to be appropriate to carry out this section.

(5) Exceptions to applicability

Notwithstanding paragraphs (1) through (4) of this subsection, subsections (a)(1) and (e)(2) of section 233 of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(a)(1), (e)(2)], and any other provision of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] relating to the Bank Enterprise Act of 1991, do not apply to the Administrator for purposes of this subchapter.

(b) Provisions relating to administration of this section

(1) New lifeline accounts

In applying section 233 of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a] for purposes of this section, the Administrator shall treat the provision of new lifeline accounts by an insured depository institution as an activity which is qualified to be taken into account under section 233(a)(2)(A) of such Act.

(2) Determination of assessment credit

For the purpose of this subchapter, section 233(a)(3) of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(a)(3)] shall be applied by substituting the following text:

“(3) Amount of assessment credit

“The amount of an assessment credit which may be awarded to an insured depository institution to carry out the qualified activities of the institution or of the subsidiaries of the institution pursuant to this section for any semiannual period shall be equal to the sum of—

“(A) with respect to qualifying activities described in paragraph (2)(A), the amount which is equal to—

“(i) 5 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is not a community development financial institution; or

“(ii) 15 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is a community development financial institution; and

“(B) with respect to qualifying activities described in paragraph (2)(C), 15 percent of the amounts determined under such subparagraph.”

(3) Adjustment of percentage

Section 233(a)(5) of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(a)(5)] shall be applied for purposes of this section by—

(A) substituting “institutions which are community development financial institutions” for “institutions which meet the community development organization requirements under section 234 [12 U.S.C. 1834b]”; and

(B) substituting “institutions which are not community development financial institutions” for “institutions which do not meet such requirements”.

(4) Designation of QDC

Section 233(b)(2) of the Bank Enterprise Act of 1991 [12 U.S.C. 1834a(b)(2)] shall be applied