

maximum interest rate that may apply during the term of the mortgage loan.

#### (b) Regulations

The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section.

#### (c) Enforcement

Any violation of this section shall be treated as a violation of the Truth in Lending Act [15 U.S.C. 1601 et seq.] and shall be subject to administrative enforcement under section 108 [15 U.S.C. 1607] or civil damages under section 130 [15 U.S.C. 1640] of such Act, or both.

#### (d) Definitions

For the purpose of this section—

(1) the term “creditor” means a person who regularly extends credit for personal, family, or household purposes; and

(2) the term “adjustable rate mortgage loan” means any consumer loan secured by a lien on a one- to four-family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest.

#### (e) Effective date

This section shall take effect upon the expiration of 120 days after August 10, 1987.

(Pub. L. 100-86, title XII, §1204, Aug. 10, 1987, 101 Stat. 662; Pub. L. 102-550, title IX, §952, Oct. 28, 1992, 106 Stat. 3893.)

### Editorial Notes

#### REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (c), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

#### CODIFICATION

Section was enacted as part of the Competitive Equality Banking Act of 1987, and not as part of the Alternative Mortgage Transaction Parity Act of 1982 which comprises this chapter.

#### AMENDMENTS

1992—Subsec. (d)(2). Pub. L. 102-550 substituted “any consumer loan” for “any loan”.

## CHAPTER 40—INTERNATIONAL LENDING SUPERVISION

Sec.	
3901.	Congressional declaration of policy.
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Sec.

3911. Equal representation for Federal Deposit Insurance Corporation and the Office of Thrift Supervision.

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### § 3901. Congressional declaration of policy

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

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

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

(Pub. L. 98-181, title I [title IX, §902], Nov. 30, 1983, 97 Stat. 1278.)

### Statutory Notes and Related Subsidiaries

#### SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-240, title IV, §401, Dec. 19, 1989, 103 Stat. 2501, provided that: “This title [enacting section 3904a of this title and enacting provisions set out as notes under section 3904a of this title and section 2291 of Title 22, Foreign Relations and Intercourse] may be cited as the ‘Foreign Debt Reserving Act of 1989’.”

#### SHORT TITLE

Pub. L. 98-181, title I [title IX, §901], Nov. 30, 1983, 97 Stat. 1278, provided that: “This title [enacting this chapter] may be cited as the ‘International Lending Supervision Act of 1983’.”

#### ENCOURAGEMENT OF DEBT-FOR-DEVELOPMENT SWAPS THROUGH LOCAL CURRENCY REPAYMENT

Pub. L. 101-240, title V, §531, Dec. 19, 1989, 103 Stat. 2513, provided that:

“(a) STATEMENT OF POLICY.—It is the sense of the Congress that—

“(1) debt-for-development swaps, where payment is made in local currency at the free market rate, serve a useful purpose by providing banking institutions with constructive opportunities for the reduction of the external debt of highly indebted developing countries in a process that involves the participation of private, nonprofit groups in providing a stimulus to the economic and social development of such developing countries;

“(2) debt-for-development swaps provide highly indebted developing countries with a creative method of reducing external debt burdens, while promoting their economic growth and restructuring objectives;

“(3) banking institutions should give careful consideration to engaging in such swaps as one means of strengthening overall loan portfolios through the reduction of high external debt burdens while expanding economic opportunities through private sector initiatives; and

“(4) in order to avoid any bias against such swaps in the regulatory framework applicable to the financial reporting of banking institutions, where payment is made in local currency at the free market rate, appropriate recognition of the fair market exchange value of the currency so received should be made.

“(b) NOTIFICATION RELATING TO LOCAL CURRENCY REPAYMENT THROUGH DEBT-FOR-DEVELOPMENT SWAPS.—Before the end of the 6-month period beginning on the date of the enactment of this section [Dec. 19, 1989], each appropriate Federal banking agency shall adopt uniform guidelines that will effectuate the policy set forth in subsection (a) concerning the regulatory framework and accounting treatment of debt-for-development swaps involving repayment in local currency at the free market rate. For the purpose of such guidelines, the impact of such swaps on reported loan loss reserves shall be determined by valuing currency received in such swaps at fair market exchange value.

“(c) DEFINITIONS.—As used in this section:

“(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term ‘appropriate Federal banking agency’ has the meaning given such term in section 903(1) of the International Lending Supervision Act of 1983 [12 U.S.C. 3902(1)].

“(2) BANKING INSTITUTION.—The term ‘banking institution’ has the meaning given such term in section 903(2) of the International Lending Supervision Act of 1983.

“(3) DEBT-FOR-DEVELOPMENT SWAP.—The term ‘debt-for-development swap’ has the meaning given such term in section 1608(b)(2) of the International Financial Institutions Act [22 U.S.C. 262p-4c(b)(2)].

“(4) HIGHLY INDEBTED COUNTRY.—The term ‘highly indebted country’ means any country designated as a ‘Highly Indebted Country’ in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section [Dec. 19, 1989].”

## § 3902. Definitions

For purposes of this chapter—

(1) the term “appropriate Federal banking agency” has the same meaning given such term in section 1813(q) of this title, except that for purposes of this chapter such term means the Board of Governors of the Federal Reserve System for—

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

(B) Edge Act corporations organized under section 25(a)<sup>1</sup> of the Federal Reserve Act [12 U.S.C. 611 et seq.]; and

(C) Agreement Corporations operating under section 25 of the Federal Reserve Act [12 U.S.C. 601 et seq.]; and

(2) the term “banking institution” means—

(A)(i) an insured bank as defined in section 1813(h) of this title or any subsidiary of an insured bank;

(ii) an Edge Act corporation organized under section 25(a)<sup>1</sup> of the Federal Reserve Act [12 U.S.C. 611 et seq.]; and

(iii) an Agreement Corporation operating under section 25 of the Federal Reserve Act [12 U.S.C. 601 et seq.]; and

(B) to the extent determined by the appropriate Federal banking agency, any agency or branch of a foreign bank, and any commercial lending company owned or controlled by one or more foreign banks or companies that control a foreign bank as those terms are defined in the International Banking Act of 1978 [12 U.S.C. 3101 et seq.]. The term “banking institution” shall not include a foreign bank.

(Pub. L. 98-181, title I [title IX, §903], Nov. 30, 1983, 97 Stat. 1278.)

<sup>1</sup> See References in Text note below.

## Editorial Notes

### REFERENCES IN TEXT

Section 25(a) of the Federal Reserve Act, referred to in pars. (1) and (2)(A), which is classified to subchapter II (§611 et seq.) of chapter 6 of this title, was renumbered section 25A of that act by Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281. Section 25 of the Federal Reserve Act is classified to subchapter I (§601 et seq.) of chapter 6 of this title.

The International Banking Act of 1978, referred to in par. (2)(B), is Pub. L. 95-369, Sept. 17, 1978, 92 Stat. 607, which enacted chapter 32 (§3101 et seq.) and sections 347d and 611a of this title, amended sections 72, 378, 614, 615, 618, 619, 1813, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1829b, 1831b, and 1841 of this title, and enacted provisions set out as notes under sections 247, 611a, and 3101 of this title and formerly set out as notes under sections 36, 247, and 601 of this title. For definitions, see section 3101 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

## § 3903. Strengthened supervision of international lending

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

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

(Pub. L. 98-181, title I [title IX, §904], Nov. 30, 1983, 97 Stat. 1279.)

## § 3904. Reserves

### (a) Establishment and maintenance of special reserves

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

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

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

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

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

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

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

### (b) Accommodation of potential losses on foreign loans by United States banks

The appropriate Federal banking agencies shall analyze the results of foreign loan resched-

uling negotiations, assess the loan loss risk reflected in rescheduling agreements, and, using the powers set forth in section 3907 of this title (regarding capital adequacy), ensure that the capital and reserve positions of United States banks are adequate to accommodate potential losses on their foreign loans.

**(c) Regulations and orders of Federal banking agencies**

The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this section within one hundred and twenty days after November 30, 1983.

(Pub. L. 98-181, title I [title IX, §905], Nov. 30, 1983, 97 Stat. 1279.)

**§ 3904a. Additional reserve requirements**

**(a) In general**

Each appropriate Federal banking agency shall review the exposure to risk of United States banking institutions arising from the medium- and long-term loans made by such institutions that are outstanding to any highly indebted country. Each agency shall provide direction to such institutions regarding additions to general reserves maintained by each banking institution for potential loan losses and special reserves required by such agency arising from such review.

**(b) Determination of institutional exposure to risk**

In determining the exposure of an institution to risk for purposes of subsection (a), the appropriate Federal banking agency—

(1) shall determine whether any country exposure that is, and has been for at least 2 years, rated in the category “Other Transfer Risk Problems” or the category “Substandard” by the Interagency Country Exposure Review Committee should be reevaluated;

(2) may exempt, in full or in part, from reserve requirements established pursuant to subsection (a), any loan—

(A) to a country that enters into a debt reduction, debt service reduction, or financing program with its bank creditors that is supported by the International Bank for Reconstruction and Development or the International Monetary Fund; or

(B) secured, in whole or in part, by appropriate collateral for payment of interest or principal;

(3) take into account any other factors which bear on such exposure and the particular circumstances of the institution; and

(4) shall consider as indicators of risk, where appropriate, the average reserve levels maintained by or required of banking institutions in foreign countries and secondary market prices for such loans.

**(c) Timing and report**

**(1) Determined by agency**

Except as provided in paragraph (3), each appropriate Federal banking agency shall determine the timing of any addition to reserves required by subsection (a).

**(2) Report**

Each appropriate Federal banking agency shall include in each report required to be made under section 3912(d)<sup>1</sup> of this title after 1989 a report on the actions taken pursuant to this section.

**(3) Deadline**

Each Federal agency required to undertake a review described in subsection (a) shall complete the review not later than December 31, 1990.

**(d) “Highly indebted country” defined**

As used in this section, the term “highly indebted country” means any country designated as a “Highly Indebted Country” in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before December 19, 1989.

(Pub. L. 98-181, title I [title IX, §905A], as added Pub. L. 101-240, title IV, § 402(b), Dec. 19, 1989, 103 Stat. 2501.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 3912(d) of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 104-208, div. A, title II, § 2224(c), Sept. 30, 1996, 110 Stat. 3009-415.

**Statutory Notes and Related Subsidiaries**

**CONGRESSIONAL FINDINGS**

Pub. L. 101-240, title IV, § 402(a), Dec. 19, 1989, 103 Stat. 2501, provided that: “The Congress finds that—

“(1) since the adoption of the International Lending Supervision Act of 1983 [12 U.S.C. 3901 et seq.], the credit quality of loans by United States banking institutions to highly indebted countries has deteriorated and the prospects for full repayment of such loans have diminished;

“(2) in general during this period, the level of country exposure and transfer risk associated with loans by United States banking institutions to highly indebted countries has not been adequately reflected in the reserve levels established by many individual United States banking institutions or the reserve requirements imposed by Federal banking agencies pursuant to such Act;

“(3) during the last 3 years and particularly in recent months, United States banking institutions have increased their reserves for possible losses from loans to highly indebted countries but such reserves remain, in some cases, significantly lower than reserves established by banking institutions in a number of foreign countries and may not be adequate to deal with potential risks; and

“(4) in order to fulfill the purposes of such Act, the Federal banking agencies should take a more active role in reviewing reserve levels established by United States banking institutions for potential losses from loans to highly indebted countries and in requiring appropriate levels of both special and general reserves to reflect the increased risk of such loans.”

**§ 3905. Accounting for fees on international loans**

(a)(1) In order to avoid excessive debt service burdens on debtor countries, no banking institution shall charge, in connection with the restructuring of an international loan, any fee exceeding the administrative cost of the restruc-

<sup>1</sup> See References in Text note below.

turing unless it amortizes such fee over the effective life of each such loan.

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

(B) The requirement of paragraph (1) shall take effect on November 30, 1983.

(b)(1) Subject to subsection (a), the appropriate Federal banking agencies shall promulgate regulations for accounting for agency, commitment, management and other fees charged by a banking institution in connection with an international loan.

(2) Such regulations shall establish the accounting treatment of such fees for regulatory, supervisory, and disclosure purposes to assure that the appropriate portion of such fees is accrued in income over the effective life of each such loan.

(3) The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this subsection within one hundred and twenty days after November 30, 1983.

(Pub. L. 98-181, title I [title IX, §906], Nov. 30, 1983, 97 Stat. 1279.)

#### **§ 3906. Collection and disclosure of international lending data**

##### **(a) Submission of information to Federal banking agencies**

Each appropriate Federal banking agency shall require, by regulation, each banking institution with foreign country exposure to submit, no fewer than four times each calendar year, information regarding such exposure in a format prescribed by such regulations.

##### **(b) Disclosure of information to the public**

Each appropriate Federal banking agency shall require, by regulation, banking institutions to disclose to the public information regarding material foreign country exposure in relation to assets and to capital.

##### **(c) Regulations and orders of Federal banking agencies**

The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this section within one hundred and twenty days after November 30, 1983.

(Pub. L. 98-181, title I [title IX, §907], Nov. 30, 1983, 97 Stat. 1280.)

#### **§ 3907. Capital adequacy**

(a)(1) Each appropriate Federal banking agency shall cause banking institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such banking institutions and by using such other methods as the appropriate Federal banking agency deems appropriate. Each appropriate Federal banking agency shall seek to make the capital standards required under this section or other provisions of Federal law for insured depository institutions countercyclical so that the amount of capital required to be maintained by an insured depository institution increases in times of eco-

nomic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the insured depository institution.

(2) Each appropriate Federal banking agency shall have the authority to establish such minimum level of capital for a banking institution as the appropriate Federal banking agency, in its discretion, deems to be necessary or appropriate in light of the particular circumstances of the banking institution.

(b)(1) Failure of a banking institution to maintain capital at or above its minimum level as established pursuant to subsection (a) may be deemed by the appropriate Federal banking agency, in its discretion, to constitute an unsafe and unsound practice within the meaning of section 1818 of this title.

(2)(A) In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the appropriate Federal banking agency may issue a directive to a banking institution that fails to maintain capital<sup>1</sup> at or above its required level as established pursuant to subsection (a).

(B)(i) Such directive may require the banking institution to submit and adhere to a plan acceptable to the appropriate Federal banking agency describing the means and timing by which the banking institution shall achieve its required capital level.

(ii) Any such directive issued pursuant to this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of section 1818(i) of this title to the same extent as an effective and outstanding order issued pursuant to section 1818(b) of this title which has become final.

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

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

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

(Pub. L. 98-181, title I [title IX, §908], Nov. 30, 1983, 97 Stat. 1280; Pub. L. 111-203, title VI, §616(c), July 21, 2010, 124 Stat. 1615.)

<sup>1</sup> So in original. Probably should be "capital".

**Editorial Notes****AMENDMENTS**

2010—Subsec. (a)(1). Pub. L. 111-203 inserted at end “Each appropriate Federal banking agency shall seek to make the capital standards required under this section or other provisions of Federal law for insured depository institutions countercyclical so that the amount of capital required to be maintained by an insured depository institution increases in times of economic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the insured depository institution.”

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2010 AMENDMENT**

Amendment by Pub. L. 111-203 effective on the transfer date, see section 616(e) of Pub. L. 111-203, set out as a note under section 1467a of this title.

**§ 3908. Foreign loan evaluations****(a) Projects requiring an economic feasibility evaluation; content of evaluation**

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

(2) Such evaluation shall—

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

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

**(b) Review of evaluation by Federal banking agencies**

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

**(c) Other statutory authorities applicable**

(1) The authorities of the Federal banking agencies contained in section 1818 of this title and in section 3909 of this title, except those contained in section 3909(d) of this title, shall be applicable to this section.

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

(Pub. L. 98-181, title I [title IX, §909], Nov. 30, 1983, 97 Stat. 1281.)

**§ 3909. General authorities****(a) Rules and regulations**

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

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

(3) For purposes of this section, the term “affiliate” shall have the same meaning as in section 371c of this title, except that the term “member bank” in such section shall be deemed to refer to an “insured depository institution”, as such term is defined in section 1813(c)(2) of this title.

**(b) Systems uniformity**

The appropriate Federal banking agencies shall establish uniform systems to implement the authorities provided under this chapter.

**(c) Existing authorities**

(1) The powers and authorities granted in this chapter shall be supplemental to and shall not be deemed in any manner to derogate from or restrict the authority of each appropriate Federal banking agency under section 1818 of this title or any other law including the authority to require additional capital or reserves.

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

**(d) Civil penalties; assessment and collection**

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

(2) Such violations shall be deemed to be a violation of a final order under section 1818(i)(2) of this title and the penalty shall be assessed and collected by the appropriate Federal banking agency under the procedures established by, and subject to the rights afforded to parties in, such section.

(Pub. L. 98-181, title I [title IX, §910], Nov. 30, 1983, 97 Stat. 1282; Pub. L. 109-351, title VII, §713(b), Oct. 13, 2006, 120 Stat. 1995.)

**Editorial Notes****AMENDMENTS**

2006—Subsec. (a)(2). Pub. L. 109-351, §713(b)(1), substituted “insured depository institution” for “insured bank”.

Subsec. (a)(3). Pub. L. 109-351, §713(b)(2), substituted “an ‘insured depository institution’, as such term is defined in section 1813(c)(2)” for “an ‘insured bank’, as such term is used in section 1813(h)”.

### **§ 3910. Audit authority of Government Accountability Office**

#### **(a) Scope of audit**

(1) Under regulations of the Comptroller General, the Comptroller General shall audit the appropriate Federal banking agencies (as defined in section 3902 of this title), but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate Federal banking agency has consented in writing.

(2) An audit under this subsection may include a review or evaluation of the international regulation, supervision, and examination activities of the appropriate Federal banking agency, including the coordination of such activities with similar activities of regulatory authorities of a foreign government or international organization.

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

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

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

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

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

#### **(b) Limits on disclosure**

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

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

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

(3) This subsection does not authorize an officer or employee of an appropriate Federal banking agency to withhold information from a com-

mittee of the Congress authorized to have the information.

#### **(c) Records, property, workpapers, correspondence, and documents; accessibility**

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

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

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

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

(Pub. L. 98-181, title I [title IX, §911], Nov. 30, 1983, 97 Stat. 1282; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

### **Editorial Notes**

#### **AMENDMENTS**

2004—Subsec. (b)(1)(A), (2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

### **§ 3911. Equal representation for Federal Deposit Insurance Corporation and the Office of Thrift Supervision**

#### **(a) In general**

As one of the 4 Federal bank regulatory and supervisory agencies, and as the insurer of the United States banks involved in international lending, the Federal Deposit Insurance Corporation shall be given equal representation with the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.

#### **(b) Office of Thrift Supervision**

As one of the 4 Federal bank regulatory and supervisory agencies, the Office of Thrift Supervision shall be given equal representation with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance

Corporation on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.

(Pub. L. 98-181, title I [title IX, §912], Nov. 30, 1983, 97 Stat. 1284; Pub. L. 109-351, title VII, §713(a), Oct. 13, 2006, 120 Stat. 1995.)

#### Editorial Notes

##### AMENDMENTS

2006—Pub. L. 109-351 inserted “and the Office of Thrift Supervision” after “Federal Deposit Insurance Corporation” in section catchline, designated existing provisions as subsec. (a), inserted heading, substituted “As one of the 4” for “As one of the three”, and added subsec. (b).

#### § 3912. Repealed. Pub. L. 104-208, div. A, title II, § 2224(c), Sept. 30, 1996, 110 Stat. 3009-415

Section, Pub. L. 98-181, title I [title IX, §913], Nov. 30, 1983, 97 Stat. 1284; Pub. L. 100-418, title III, §3121(e), Aug. 23, 1988, 102 Stat. 1379, directed Secretary of the Treasury and certain Federal banking agencies to report to Congress, no later than 6 months after Nov. 30, 1983, regarding changes that could improve international lending operations of banking institutions.

### CHAPTER 41—EXPEDITED FUNDS AVAILABILITY

Sec.	
4001.	Definitions.
4002.	Expedited funds availability schedules.
4003.	Safeguard exceptions.
4004.	Disclosure of funds availability policies.
4005.	Payment of interest.
4006.	Miscellaneous provisions.
4007.	Effect on State law.
4008.	Regulations and reports by Board.
4009.	Administrative enforcement.
4010.	Civil liability.

#### § 4001. Definitions

For purposes of this chapter—

##### (1) Account

The term “account” means a demand deposit account or other similar transaction account at a depository institution.

##### (2) Board

The term “Board” means the Board of Governors of the Federal Reserve System.

##### (3) Business day

The term “business day” means any day other than a Saturday, Sunday, or legal holiday.

##### (4) Cash

The term “cash” means United States coins and currency, including Federal Reserve notes.

##### (5) Cashier’s check

The term “cashier’s check” means any check which—

- (A) is drawn on a depository institution;
- (B) is signed by an officer or employee of such depository institution; and
- (C) is a direct obligation of such depository institution.

##### (6) Certified check

The term “certified check” means any check with respect to which a depository institution certifies that—

(A) the signature on the check is genuine; and

(B) such depository institution has set aside funds which—

- (i) are equal to the amount of the check; and
- (ii) will be used only to pay such check.

#### (7) Check

The term “check” means any negotiable demand draft drawn on or payable through an office of a depository institution located in the United States. Such term does not include noncash items.

#### (8) Check clearinghouse association

The term “check clearinghouse association” means any arrangement by which participant depository institutions exchange deposited checks on a local basis, including an entire metropolitan area, without using the check processing facilities of the Federal Reserve System.

#### (9) Check processing region

The term “check processing region” means the geographical area served by a Federal Reserve bank check processing center or such larger area as the Board may prescribe by regulations.

#### (10) Consumer account

The term “consumer account” means any account used primarily for personal, family, or household purposes.

#### (11) Depository check

The term “depository check” means any cashier’s check, certified check, teller’s check, and any other functionally equivalent instrument as determined by the Board.

#### (12) Depository institution

The term “depository institution” has the meaning given such term in clauses (i) through (vi) of section 461(b)(1)(A) of this title. Such term also includes an office, branch, or agency of a foreign bank located in the United States.

#### (13) Local originating depository institution

The term “local originating depository institution” means any originating depository institution which is located in the same check processing region as the receiving depository institution.

#### (14) Noncash item

The term “noncash item” means—

(A) a check or other demand item to which a passbook, certificate, or other document is attached;

(B) a check or other demand item which is accompanied by special instructions, such as a request for special advise of payment or dishonor; or

(C) any similar item which is otherwise classified as a noncash item in regulations of the Board.

#### (15) Nonlocal originating depository institution

The term “nonlocal originating depository institution” means any originating depository institution which is not a local depository institution.