

§ 338. Examination of affiliates; forfeiture of membership on refusal of affiliate to give information or pay expense

In connection with examinations of State member banks, examiners selected or approved by the Board of Governors of the Federal Reserve System shall make such examinations of the affairs of all affiliates of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon the affairs of such banks. The expense of examination of affiliates of any State member bank may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against such bank and, when so assessed, shall be paid by such bank. In the event of the refusal to give any information requested in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, or in the event of the refusal to pay any expenses so assessed, the Board of Governors of the Federal Reserve System may, in its discretion, require any or all State member banks affiliated with such affiliate to surrender their stock in the Federal Reserve bank and to forfeit all rights and privileges of membership in the Federal Reserve System, as provided in this subchapter.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 166; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this section”, meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§ 321 et seq.).

CODIFICATION

Section is comprised of the twenty-second par. of section 9 of act Dec. 23, 1913, as amended. The twenty-second par. constituted the twenty-first par. of section 9 in 1933 (48 Stat. 166), became the twenty-second par. in 1935 (49 Stat. 704), and became the twenty-third par. in 1950 (64 Stat. 458), and became the twenty-second par. in 1966 (80 Stat. 243). For further details, see Codification notes set out under sections 321 and 329a of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 338a. Investments to promote public welfare and community development; limitation on investments

A State member bank may make investments directly or indirectly, each of which is designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law. A State member bank shall not make any such investment if the investment would expose the State member bank to unlimited liability. The Board shall limit a

State member bank's investment in any 1 project and a State member bank's aggregate investments under this paragraph. The aggregate amount of investments of any State member bank under this paragraph may not exceed an amount equal to the sum of 5 percent of the State member bank's capital stock actually paid in and unimpaired and 5 percent of the State member bank's unimpaired surplus, unless the Board determines, by order, that a higher amount will pose no significant risk to the affected deposit insurance fund; and the State member bank is adequately capitalized. In no case shall the aggregate amount of investments of any State member bank under this paragraph exceed an amount equal to the sum of 15 percent of the State member bank's capital stock actually paid in and unimpaired and 15 percent of the State member bank's unimpaired surplus. The foregoing standards and limitations apply to investments under this paragraph made by a State member bank directly and by its subsidiaries.

(Dec. 23, 1913, ch. 6, § 9(23), formerly § 9 (par.), as added Pub. L. 102-485, § 6(b), Oct. 23, 1992, 106 Stat. 2774; amended Pub. L. 104-208, div. A, title II, § 2704(d)(8), Sept. 30, 1996, 110 Stat. 3009-489; Pub. L. 109-171, title II, § 2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, § 9(b), Feb. 15, 2006, 119 Stat. 3616; renumbered § 9(23) and amended Pub. L. 109-351, title III, § 305(b), Oct. 13, 2006, 120 Stat. 1971; Pub. L. 110-289, div. B, title V, § 2503(b), July 30, 2008, 122 Stat. 2857.)

Editorial Notes

CODIFICATION

Section is comprised of par. (23) (the twenty-third par.) of section 9 of act Dec. 23, 1913, as amended. For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

2008—Pub. L. 110-289, which directed substitution of “is designed primarily to promote the public welfare, including the welfare of” for “promotes the public welfare by benefitting primarily” in first sentence, was executed by making the substitution for “promotes the public welfare by benefitting primarily” to reflect the probable intent of Congress.

2006—Pub. L. 109-351 amended section generally. Prior to amendment, section read as follows: “State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board shall limit a bank's investments in any 1 project and bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the Deposit Insurance Fund, and the bank is adequately capitalized. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.”

Pub. L. 109-173, in fourth sentence, substituted “Deposit Insurance Fund” for “affected deposit insurance fund”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(8). See 1996 Amendment note below.

1996—Pub. L. 104-208, §2704(d)(8), which directed the amendment of the fourth sentence by substituting “Deposit Insurance Fund” for “affected deposit insurance fund”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109-171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109-171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

§ 339. Participation by State member banks in lotteries and related activities

(a) Prohibited activities

A State member bank may not—

- (1) deal in lottery tickets;
- (2) deal in bets used as a means or substitute for participation in a lottery;
- (3) announce, advertise, or publicize the existence of any lottery;¹
- (4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A State member bank may not permit—

- (1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a), or
- (2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a).

(c) Definitions

As used in this section—

- (1) The term “deal in” includes making, taking, buying, selling, redeeming, or collecting.
- (2) The term “lottery” includes any arrangement, other than a savings promotion raffle, whereby three or more persons (the “participants”) advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the “winners”) will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

- (A) a random selection;
- (B) a game, race, or contest; or
- (C) any record or tabulation of the result of one or more events in which any partici-

pant has no interest except for its bearing upon the possibility that he may become a winner.

(3) The term “lottery ticket” includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(4) The term “savings promotion raffle” means a contest in which the sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account or other savings program, where each ticket or entry has an equal chance of being drawn, such contest being subject to regulations that may from time to time be promulgated by the appropriate prudential regulator (as defined in section 5481 of this title).

(d) Lawful banking services connected with operation of lottery

Nothing contained in this section prohibits a State member bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(Dec. 13, 1913, ch. 6, §9A, as added Pub. L. 90-203, §2, Dec. 15, 1967, 81 Stat. 609; amended Pub. L. 113-251, §3(b), Dec. 18, 2014, 128 Stat. 2889.)

Editorial Notes

CODIFICATION

Section was enacted as section 9A of act Dec. 13, 1913, and not as part of section 9 of such act which comprises this subchapter.

AMENDMENTS

2014—Subsec. (c)(2). Pub. L. 113-251, §3(b)(1), inserted “, other than a savings promotion raffle,” before “whereby” in introductory provisions.

Subsec. (c)(4). Pub. L. 113-251, §3(b)(2), added par. (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90-203, set out as a note under section 25a of this title.

§ 339a. Resolution of clearing banks

(a) Conservatorship or receivership

(1) Appointment

The Board may appoint a conservator or receiver to take possession and control of any uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 4422¹ of this title to the same extent and in the same manner as

¹ So in original. The word “or” probably should appear.

¹ See References in Text note below.