

## CHAPTER 48—FINANCIAL INSTITUTIONS REGULATORY IMPROVEMENT

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### § 4801. Incorporated definitions

Unless otherwise specifically provided in this chapter, for purposes of this chapter—

(1) the terms “appropriate Federal banking agency”, “Federal banking agencies”, “insured depository institution”, and “State bank supervisor” have the same meanings as in section 1813 of this title; and

(2) the term “insured credit union” has the same meaning as in section 1752 of this title.

(Pub. L. 103-325, title III, §301, Sept. 23, 1994, 108 Stat. 2214.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in original “this title” meaning title III of Pub. L. 103-325, Sept. 23, 1994, 108 Stat. 2214, which enacted this chapter, sections 633 and 2606 of this title, and section 5329 of Title 31, Money and Finance, amended sections 1, 24, 27, 72, 93, 161, 248, 250, 324, 375a, 375b, 482, 1462a, 1464, 1468, 1813, 1815, 1817, 1819 to 1821, 1823, 1828, 1831f, 1831m, 1831p-1, 1831t, 1842, 1843, 1849, 1865, 1953, 2605, 3201, 3205, 3207, 3351, and 4313 of this title and sections 77c, 78c, 1667c, and 1681g of Title 15, Commerce and Trade, enacted provisions set out as notes under this section, sections 24, 633, 1468, 1820, 1831p-1, and 1831t of this title, and sections 78c and 1667c of Title 15, and amended provisions set out as notes under sections 1825 and 1828 of this title. For complete classification of title III to the Code, see Tables.

#### Statutory Notes and Related Subsidiaries

USE OF SUBORDINATED DEBT TO PROTECT FINANCIAL SYSTEM AND DEPOSIT FUNDS FROM “TOO BIG TO FAIL” INSTITUTIONS

Pub. L. 106-102, title I, §108, Nov. 12, 1999, 113 Stat. 1361, provided that:

“(a) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall conduct a study of—

“(1) the feasibility and appropriateness of establishing a requirement that, with respect to large insured depository institutions and depository institution holding companies the failure of which could have serious adverse effects on economic conditions or financial stability, such institutions and holding companies maintain some portion of their capital in the form of subordinated debt in order to bring market forces and market discipline to bear on the operation of, and the assessment of the viability of, such institutions and companies and reduce the risk to economic conditions, financial stability, and any deposit insurance fund;

“(2) if such requirement is feasible and appropriate, the appropriate amount or percentage of capital that

should be subordinated debt consistent with such purposes; and

“(3) the manner in which any such requirement could be incorporated into existing capital standards and other issues relating to the transition to such a requirement.

“(b) REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act [Nov. 12, 1999], the Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall submit a report to the Congress containing the findings and conclusions of the Board and the Secretary in connection with the study required under subsection (a), together with such legislative and administrative proposals as the Board and the Secretary may determine to be appropriate.

“(c) DEFINITIONS.—For purposes of subsection (a), the following definitions shall apply:

“(1) 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].

“(2) INSURED DEPOSITORY INSTITUTION.—The term ‘insured depository institution’ has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)].

“(3) SUBORDINATED DEBT.—The term ‘subordinated debt’ means unsecured debt that—

“(A) has an original weighted average maturity of not less than 5 years;

“(B) is subordinated as to payment of principal and interest to all other indebtedness of the bank, including deposits;

“(C) is not supported by any form of credit enhancement, including a guarantee or standby letter of credit; and

“(D) is not held in whole or in part by any affiliate or institution-affiliated party of the insured depository institution or bank holding company.”

STUDY AND REPORT ON ADAPTING EXISTING LEGISLATIVE REQUIREMENTS TO ONLINE BANKING AND LENDING

Pub. L. 106-102, title VII, §729, Nov. 12, 1999, 113 Stat. 1476, required the Federal banking agencies (as defined in 12 U.S.C. 1813(z)) to study banking regulations regarding the delivery of financial services, including those regulations that may assume that there will be person-to-person contact during the course of a financial services transaction, and report their recommendations on adapting those existing requirements to online banking and lending, and report to Congress on the findings and conclusions, together with appropriate recommendations for legislative or regulatory action, before the end of the 2-year period beginning on Nov. 12, 1999.

TREASURY REPORT ON REDUCED TAXATION AND VIABILITY OF SMALL BANKS

Pub. L. 105-219, title IV, §403, Aug. 7, 1998, 112 Stat. 935, required the Secretary of the Treasury to submit, not later than 1 year after Aug. 7, 1998, a report to the Congress containing recommendations for appropriate legislative and administrative action that would reduce and simplify the tax burden for small banking institutions.

STUDY AND REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON ECONOMY

Pub. L. 103-325, title III, §328, Sept. 23, 1994, 108 Stat. 2230, directed the Secretary of the Treasury, in consultation with the Federal banking agencies, to conduct a study of the effect that the implementation of risk-based capital standards for depository institutions, including the Basle international capital standards, was having on the safety and soundness of insured depository institutions and economic growth and to submit a report and any capital standard recommendations to Congress before end of the 1-year period beginning on Sept. 23, 1994.

#### STUDY ON IMPACT OF PAYMENT OF INTEREST ON RESERVES

Pub. L. 103-325, title III, §329, Sept. 23, 1994, 108 Stat. 2230, provided for, not later than 180 days after Sept. 23, 1994, studies and reports to the Congress on the need and impact of payment of interest on sterile reserves.

#### STUDY AND REPORT ON CONSUMER CREDIT SYSTEM

Pub. L. 103-325, title III, §330, Sept. 23, 1994, 108 Stat. 2231, provided for a study of the process, including any Federal laws, by which credit is made available for consumers and small businesses in order to identify procedures, including any Federal laws, that reduce available credit, increase consumer inconvenience, or increase costs and burdens on insured depository institutions, with a report and recommendations by the Secretary of the Treasury no later than 1 year after Sept. 23, 1994.

#### STUDY ON CHECK-RELATED FRAUD

Pub. L. 103-325, title III, §333, Sept. 23, 1994, 108 Stat. 2233, provided that the Board of Governors of the Federal Reserve System should conduct a study on the advisability of extending the 1-business-day period specified in 12 U.S.C. 4002(b)(1), regarding availability of funds deposited by local checks, to 2 business days, and report to the Congress no later than 2 years after Sept. 23, 1994.

#### FEASIBILITY STUDY OF DATA BANK

Pub. L. 103-325, title III, §341, Sept. 23, 1994, 108 Stat. 2238, provided that, not later than 18 months after Sept. 23, 1994, the Federal Financial Institutions Examination Council would study the feasibility, including the costs and benefits to insured depository institutions, of establishing and maintaining a data bank for reports submitted by any depository institution to a Federal banking agency and report to Congress.

#### TIMELY COMPLETION OF CRA REVIEW

Pub. L. 103-325, title III, §342, Sept. 23, 1994, 108 Stat. 2238, provided that: "The comprehensive regulatory review of the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.] that, as of the date of enactment of this Act [Sept. 23, 1994], is being conducted by the Federal banking agencies, shall be completed at the earliest practicable time."

#### WAIVER OF RIGHT OF RESCISSION FOR CERTAIN REFINANCING TRANSACTIONS

Pub. L. 103-325, title III, §344, Sept. 23, 1994, 108 Stat. 2239, provided that: "Not later than 6 months after the date of enactment of this Act [Sept. 23, 1994], the Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, consumers, representatives of consumers, lenders, and other interested parties, shall submit recommendations to the Congress regarding whether a waiver or modification, at the option of a consumer, of the right of rescission under section 125 of the Truth in Lending Act [15 U.S.C. 1635] with respect to transactions which constitute a refinancing or consolidation (with no new advances) of the principal balance then due, and any accrued and unpaid finance charges of an existing extension of credit by a different creditor secured by an interest in the same property, would benefit consumers."

### § 4802. Administrative consideration of burden with new regulations

#### (a) Agency considerations

In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency

shall consider, consistent with the principles of safety and soundness and the public interest—

- (1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions and customers of depository institutions; and
- (2) the benefits of such regulations.

#### (b) Adequate transition period for new regulations

##### (1) In general

New regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless—

(A) the agency determines, for good cause published with the regulation, that the regulation should become effective before such time;

(B) the regulation is issued by the Board of Governors of the Federal Reserve System in connection with the implementation of monetary policy; or

(C) the regulation is required to take effect on a date other than the date determined under this paragraph pursuant to any other Act of Congress.

##### (2) Early compliance

Any person who is subject to a regulation described in paragraph (1) may comply with the regulation before the effective date of the regulation.

(Pub. L. 103-325, title III, §302, Sept. 23, 1994, 108 Stat. 2214.)

### § 4803. Streamlining of regulatory requirements

#### (a) Review of regulations; regulatory uniformity

During the 2-year period beginning on September 23, 1994, each Federal banking agency shall, consistent with the principles of safety and soundness, statutory law and policy, and the public interest—

(1) conduct a review of the regulations and written policies of that agency to—

(A) streamline and modify those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability;

(B) remove inconsistencies and outmoded and duplicative requirements; and

(C) with respect to regulations prescribed pursuant to section 1828(o) of this title, consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities;

(2) review the extent to which existing regulations require insured depository institutions and insured credit unions to produce unnecessary internal written policies and eliminate such requirements, where appropriate;

(3) work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies; and