June 30, 1949, ch. 286, title I, 63 Stat. 358.
June 14, 1948, ch. 466, title I, 62 Stat. 409.

Section 363, act June 1, 1955, ch. 113, title I, 69 Stat. 72, which related to reimbursement of Federal Reserve banks and branches for necessary expenses incident to verification and destruction of unfit United States paper currency, was from the Treasury-Post Office Appropriation Act, 1956, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following prior appropriation act: May 28, 1954, ch. 242, title I, 68 Stat. 144.

Section 364, act Sept. 26, 1970, Pub. L. 91–422, title II, 84 Stat. 875, which related to reimbursement of Federal Reserve banks and branches for expenditures as fiscal agents of the United States on account of Post Office Department operations, was from the Treasury, Post Office, and Executive Office Appropriation Act, 1971, and was not repeated in subsequent appropriation acts.

SUBCHAPTER X—POWERS AND DUTIES OF MEMBER BANKS

§ 371. Real estate loans

(a) Authorization to make real estate loans; orders, rules, and regulations of Comptroller of the Currency

Any national banking association may make, arrange, purchase or sell loans or extensions of credit secured by liens on interests in real estate, subject to section 1828(*o*) of this title and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.

(b) Eligibility for discount as commercial paper of notes representing loans financing construction of residential or farm buildings; prerequisites

Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities not to exceed nine months shall be eligible for discount as commercial paper within the terms of the first paragraph of section 343 of this title if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.

(Dec. 23, 1913, ch. 6, § 24, 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 754; Feb. 25, 1927, ch. 191, § 16, 44 Stat. 1232; June 27, 1934, ch. 847, § 505, 48 Stat. 1263; Aug. 23, 1935, ch. 614, title II, § 208, title III, § 328, 49 Stat. 706, 717; Mar. 28, 1941, ch. 31, § 8, 55 Stat. 62; July 22, 1937, ch. 517, § 15(a), as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1079; May 25, 1948, ch. 334, § 9, 62 Stat. 265; Oct. 25, 1949, ch. 729, § 6, 63 Stat. 906; Apr. 20, 1950, ch. 94, title V, § 502, 64 Stat. 80; Sept. 1, 1951, ch. 378, title II, § 207, title V, § 503, 65 Stat. 303, 312; Aug. 15, 1953, ch. 510, 67 Stat. 613; July 22, 1954, ch. 561, 68 Stat. 525; Aug. 28, 1937, ch. 870, § 10(f), as added Aug. 17, 1954, ch. 751, § 1(4), 68 Stat. 736; Aug. 11, 1955, ch. 781, §§ 1, 2, 69 Stat. 633, 634; Pub. L. 85–536, § 3, July 18, 1958, 72 Stat. 396; Pub. L. 86–251, § 4, Sept. 9, 1959, 73 Stat. 489; Pub. L. 87–70, title VIII, § 804(c), title IX, § 902, June 30, 1961, 75 Stat. 188, 191; Pub. L. 87–717, Sept. 28, 1962, 76 Stat. 662; Pub. L. 88–341, June 30, 1964, 78 Stat. 233; Pub. L. 88–560, title X, § 1004, Sept. 2, 1964, 78 Stat. 807; Pub. L. 89–117, title II, § 201(b)(2), title XI, § 1111, Aug. 10, 1965, 79 Stat. 465, 509; Pub. L. 89–754, title V, § 504(a)(2), Nov. 3, 1966, 80 Stat. 1277; Pub. L. 90–19, § 26, May 25, 1967, 81 Stat. 28; Pub. L. 90–448, title IV, § 416(b), title XVII, § 1718, Aug. 1, 1968, 82 Stat. 518, 609; Pub. L. 91–351, title VII, § 704, July 24, 1970, 84 Stat. 462; Pub. L. 91–609, title VII, § 727(c), Dec. 31, 1970, 84 Stat. 1803; Pub. L. 93–383, title VII, § 711, title VIII, § 802(i)(1), Aug. 22, 1974, 88 Stat. 716, 725; Pub. L. 97–320, title IV, § 403(a), Oct. 15, 1982, 96 Stat. 1510; Pub. L. 102–242, title III, § 304(b), Dec. 19, 1991, 105 Stat. 2354.)

Editorial Notes

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–242 substituted ''section 1828(*o*) of this title and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order'' for ''such terms, conditions, and limitations as may be prescribed by the Comptroller of the Currency by order, rule, or regulation''.

1982—Subsec. (a). Pub. L. 97–320 amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows:

''(1) Any national banking association may make real estate loans, secured by liens upon unimproved real estate, upon improved real estate, including improved farmland and improved business and residential properties, and upon real estate to be improved by a building or buildings to be constructed or in the process of construction, in an amount which when added to the amount unpaid upon prior mortgages, liens, encumbrances, if any, upon such real estate does not exceed the respective proportions of appraised value as provided in this section. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by a mortgage, trust deed, or other instrument, which shall constitute a lien on real estate in fee or, under such rules and regulations as may be prescribed by the Comptroller of the Currency, on a leasehold under a lease which does not expire for at least ten years beyond the maturity date of the loan, and any national banking association may purchase or sell any obligations so secured in whole or in part. The amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by offsite improvements such as streets, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. If any such loan exceeds 75 per centum of the appraised value of the real estate or if the real estate is improved with a one- to four-family dwelling, installment payments shall be required which are sufficient to amortize the entire principal of the loan within a period of not more than thirty years.

''(2) The limitations and restrictions set forth in paragraph (1) shall not prevent the renewal or extension of loans heretofore made and shall not apply to real estate loans (A) which are insured under the provisions of the National Housing Act [12 U.S.C. 1701 et seq.], (B) which are insured by the Secretary of Agriculture pursuant to title I of the Bankhead-Jones Farm Tenant Act, or the Act of August 28, 1937, as amended, or title V of the Housing Act of 1949, as amended, [42 U.S.C. 1471 et seq.], or (C) which are guaranteed by the Secretary of Housing and Urban Development, for the payment of the obligations of which the full faith and credit of the United States is pledged, and such limitations and restrictions shall not apply to real estate loans which are fully guaranteed or insured by a State, or any agency or instrumentality thereof, or by a State authority for the payment of the obligations of which

the faith and credit of the State is pledged, if under the terms of the guaranty or insurance agreement the association will be assured of repayment in accordance with the terms of the loan, or to any loan at least 20 per centum of which is guaranteed under chapter 37 of title 38, or to obligations guaranteed under section 1440 of title 42.

''(3) Loans which are guaranteed or insured as described in paragraph (2) shall not be taken into account in determining the amount of real estate loans which a national banking association may make in relation to its capital and surplus or its time and savings deposits or in determining, the amount of real estate loans secured by other than first liens. Where the collateral for any loan consists partly of real estate security and partly of other security, including a guaranty or endorsement by or an obligation or commitment of a person other than the borrower, only the amount by which the loan exceeds the value as collateral of such other security shall be considered a loan upon the security of real estate, and in no event shall a loan be considered as a real estate loan where there is a valid and binding agreement which is entered into by a financially responsible lender or other party either directly with the association or which is for the benefit of or has been assigned to the association and pursuant to which agreement the lender or other party is required to advance to the association within sixty months from the date of the making of such loan the full amount of the loan to be made by the association upon the security of real estate. Except as otherwise provided, no such association shall make real estate loans in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of the amount of its time and savings deposits, whichever is greater: *Provided*, That the amount unpaid upon real estate loans secured by other than first liens, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, shall not exceed in an aggregate sum 20 per centum of the amount of the capital stock of such association paid in and unimpaired plus 20 per centum of the amount of its unimpaired surplus fund.''

Subsec. (b). Pub. L. 97–320 redesignated subsec. (d) as (b) and struck out former subsec. (b) ''Any national banking association may make real estate loans secured by liens upon forest tracts which are properly managed in all respects. Such loans shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument; and any national banking association may purchase or sell any obligations so secured in whole or in part. The amount of any such loan, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, shall not exceed 66⅔ per centum of the appraised fair market value of the growing timber, lands, and improvements thereon offered as security and the loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, exceed 66⅔ per centum of the original appraised total value of the property then remaining. No such loan shall be made for a longer term than three years; except that any such loan may be made for a term not longer than fifteen years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than fifteen years and at a rate at least 6⅔ per centum per annum. All such loans secured by liens upon forest tracts shall be included in the permissible aggregate of all real estate loans and, when secured by other than first liens, in the permissible aggregate of all real estate loans secured by other than first liens, prescribed in subsection (a) of this section, but no national banking association shall make forest tract loans in an aggregate sum in excess of 50 per centum of its capital stock paid in and unimpaired plus 50 per centum of its unimpaired surplus fund.''

Subsec. (c). Pub. L. 97–320 struck out subsec. (c) ''Loans made to finance the construction of a building or buildings and having maturities of not to exceed sixty months where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building or buildings, and loans made to finance the construction of residential or farm buildings and having maturities of not to exceed sixty months, may be considered as real estate loans if the loans qualify under this section, or such loans may be classed as commercial loans whether or not secured by a mortgage or similar lien on the real estate upon which the building or buildings are being constructed, at the option of each national banking association that may have an interest in such loan: *Provided*, That no national banking association shall invest in, or be liable on, any such loans classed as commercial loans under this subsection in an aggregate amount in excess of 100 per centum of its actually paid-in and unimpaired capital plus 100 per centum of its unimpaired surplus fund.''

Subsec. (d). Pub. L. 97–320 redesignated subsec. (d) as (b).

Subsec. (e). Pub. L. 97–320 struck out subsec. (e) ''Loans made to any borrower (i) where the association looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or (ii) secured by an assignment of rents under a lease, and where, in either case described in clause (i) or (ii) above, the association wishes to take a mortgage, deed of trust, or other instrument upon real estate (whether or not constituting a first lien) as a precaution against contingencies, and loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred or guaranteed basis under the Small Business Act [15 U.S.C. 631 et seq.], shall not be considered as real estate loans within the meaning of this section but shall be classed as commercial loans.''

Subsec. (f). Pub. L. 97–320 struck out subsec. (f) ''Any national banking association may make loans upon the security of real estate that do not comply with the limitations and restrictions in this section, if the total unpaid amount loaned, exclusive of loans which subsequently comply with such limitations and restrictions, does not exceed 10 per centum of the amount that a national banking association may invest in real estate loans. The total unpaid amount so loaned shall be included in the aggregate sum that such association may invest in real estate loans.''

Subsec. (g). Pub. L. 97–320 struck out subsec. (g) ''Loans made pursuant to this section shall be subject to such conditions and limitations as the Comptroller of the Currency may prescribe by rule or regulation.''

1974—Subsec. (a). Pub. L. 93–383, §§711, 802(i)(1), designated unlettered first par. as subsec. (a), substantially revised provisions relating to real estate loans by associations, and inserted reference to obligations guaranteed by section 1440 of title 42.

Subsecs. (b) to (f). Pub. L. 93–383, §711, designated unlettered second, third, fourth, and fifth pars. as subsecs. (b) to (f) and substantially revised provisions relating to real estate loans secured by liens upon forest tracts, loans made to finance the construction of buildings, notes representing loans, repayment of loans, and waiver of restrictions and limitations.

Subsec. (g). Pub. L. 93–383, §711, added subsec. (g) authorizing the Comptroller of the Currency to prescribe rules and regulations relating to loans.

1970—Pub. L. 91–609 authorized national banks to invest in obligations guaranteed under part B of the Urban Growth and New Community Development Act of 1970.

Pub. L. 91–351 substituted in cl. (3) of third sentence of first par. ''90 per centum'' for ''80 per centum'' and ''thirty years'' for ''twenty-five years'', and in first sentence of third par. ''sixty months'' for ''thirty-six months'' wherever appearing.

1968—Pub. L. 90–448, §416(b), substituted ''any national banking association may make loans or purchase

obligations for land development which are secured by mortgages insured under title X of the National Housing Act or guaranteed under title IV of the Housing and Urban Development Act of 1968'' for ''any national banking association may make loans for land development which are secured by mortgages insured under title X of the National Housing Act'' in first par.

Pub. L. 90–448, §1718, substituted ''in whole or in part and at any time or times prior to the maturity of such obligation'' for ''when the entire amount of such obligation is sold to the association'' wherever appearing in first and second pars., ''thirty-six months'' for ''twenty-four months'' in two places in second par., and ''Loans made to any borrower (i) where the association looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or (ii) where the association relies on other security as collateral for the loans (including but not limited to a guaranty of a third party), and where, in either case described in clause (i) or (ii) above, the association wishes to take a mortgage, deed of trust, or other instrument upon real estate (whether or not constituting a first lien) as a precaution against contingencies, such loans shall not be considered as real estate loans within the meaning of this section but shall be classed as ordinary non-real-estate loans'' for ''Loans made to manufacturing and industrial businesses where the association looks for repayment out of the operations of the borrower's business, relying primarily on the borrower's general credit standing and forecast of operations, with or without other security, but wishes to take a mortgage on the borrower's real estate as a precaution against contingencies, shall not be considered as real estate loans within the meaning of this section but shall be classed as ordinary commercial loans'' in last par.

1967—Pub. L. 90–19 substituted ''Secretary of Housing and Urban Development'' for ''Housing and Home Finance Administrator'' in first sentence of fourth par.

1966—Pub. L. 89–754 permitted national banking associations to make loans for group practice facilities which are secured by mortgages insured under subchapter IX–B of chapter 13 of this title.

1965—Pub. L. 89–117 permitted national banking associations to make loans for land development which are secured by mortgages insured under title X of the National Housing Act and increased from 18 months to 24 months the maximum maturity of industrial, commercial, and residential construction loans.

1964—Pub. L. 88–560 substituted in cl. (3) of third sentence of first par. ''80'' for ''75'' per centum and ''twenty-five'' for ''20'' years.

Pub. L. 88–341 substituted ''60 per centum of the appraised fair market value of the growing timber, lands, and improvements thereon'' for ''40 per centum of the appraised value of the economically marketable timber'', ''60 per centum of the original appraised total value of the property'' for ''40 per centum of the original appraised value of the economically marketable timber'', increased the permissible loan term from 2 to 3 years in the case of unamortized loans, from 10 to 15 years in the case of amortized loans, and decreased the annual rate from 10 to 6⅔ per centum.

1962—Pub. L. 87–717 increased aggregate real estate loan limitation from 60 to 70 per centum of a bank's time and savings deposits, and limitation on maturities for loans made to finance the construction of residential or farm buildings, from nine months or less to eighteen months or less.

1961—Pub. L. 87–70 inserted '', or title V of the Housing Act of 1949, as amended'' after ''sections 590r to 590x–3 of title 16'' in first par., and in next to last par. inserted provisions permitting home improvement loans which are insured under section 1709(k) or 1715k(h) of this title to be made without regard to the first lien requirements of this section.

1959—Pub. L. 86–251, §4(a), substituted in second sentence of first par., ''under a lease which does not expire for at least 10 years beyond the maturity date of the loan'' for ''(1) under a lease for not less than ninety-nine years which is renewable or (2) under a lease having a period of not less than fifty years to run from the date the loan is made or acquired by the national banking association''.

Pub. L. 86–251, §4(b)(1), (2), added cl. (3) in third sentence of first par., redesignated former cl. (3) as cl. (4), and prohibited the application of the described limitations and restrictions to State-guaranteed loans.

Pub. L. 86–251, §4(c), inserted provisions in third par. classifying certain loans for construction of industrial or commercial buildings as ordinary commercial loans and authorized investments in or liability on loans in an amount that includes 100 per centum of its unimpaired surplus fund.

Pub. L. 86–251, §4(d), added par. classifying certain loans to manufacturing and industrial businesses as ordinary commercial loans.

1958—Pub. L. 85–536 amended fourth par. by striking out ''or the Small Business Administration'' after ''Housing and Home Finance Administrator'' and ''or the Small Business Act of 1953'' after ''or 1701g–1 of this title'', and inserting provisions exempting loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred basis from the restrictions or limitations of this section imposed upon loans secured by real estate.

1955—Act Aug. 11, 1955, §1, amended first par. generally to increase the percentage of the loan to the appraised value of the property from 60 to 66⅔ percent in the case of 40 percent amortized residential mortgage loans not exceeding a 10-year maturity, and to permit national banks to make a residential real-estate loan in an amount not to exceed 66⅔ percent of the appraised value of the property and for a term not longer than 20 years.

Act Aug. 11, 1955, §2, amended third par. by increasing from 6 to 9 months construction loans for the purpose of financing residential or farm buildings.

1954—Act Aug. 17, 1954, amended third sentence of first par. by inserting '', or sections 590r to 590x–3 of title 16'' after ''sections 1001–1005d of title 7''.

Act July 22, 1954, amended fourth par. by inserting references to the Small Business Administration and to the Small Business Act of 1953.

1953—Act Aug. 15, 1953, amended section by inserting new second par. to permit the making of real estate loans secured by first liens upon forest tracts which are properly managed.

1951—Act Sept. 1, 1951, §207, amended third sentence of first par. by inserting a reference to subchapter X of chapter 13 of this title.

Act Sept. 1, 1951, §503, amended third par. by inserting a reference to the Housing and Home Finance Administrator, and references to sections 1701g and 1701g–1 of this title.

1950—Act Apr. 20, 1950, amended third sentence of first par. by substituting ''1748–1748g, or 1706c of this title'' for ''or 1748–1748g of this title''.

1949—Joint Res. Oct. 25, 1949, amended first par. by striking out second sentence and inserting new second sentence, and by inserting ''sections 1707–1715, 1736–1742, and 1748–1748g of this title'' for ''sections 1707–1715 and 1736–1742 of this title''.

1948—Act May 25, 1948, amended third par. by striking out references to certain lending authority which the Corporation was granted under section 604(a) of title 15, as amended in 1947, and which it does not now have.

1946—Act Aug. 14, 1946, amended first par. by inserting ''or which are insured by the Secretary of Agriculture pursuant to sections 1001–1005d of title 7''.

1941—Act Mar. 28, 1941, amended third sentence of first par. by inserting reference to sections 1736 to 1742 of this title.

1935—Act Aug. 23, 1935, amended first par. and added third par.

1934—Act June 27, 1934, amended first par. and added second par.

1927—Act Feb. 25, 1927, amended first par.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–320, title IV, § 403(c), Oct. 15, 1982, 96 Stat. 1511, provided that: ''This section [amending this section and section 92 of this title] shall take effect upon the expiration of one hundred and eighty days after the date of its enactment [Oct. 15, 1982].''

REPEALS

Repealing provisions of Consolidated Farmers Home Administration Act of 1961 as not having the effect of repealing the amendments to this section enacted by act July 22, 1937, § 15(a), as added Aug. 14, 1946, and Aug. 28, 1937, § 10(f), as added Aug. 17, 1954, see section 341(a) of Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 318, set out as a References in Other Laws note under section 1921 of Title 7, Agriculture.

Executive Documents

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 371a. Repealed. Pub. L. 111–203, title VI, § 627(a)(1), July 21, 2010, 124 Stat. 1640

Section, act Dec. 23, 1913, ch. 6, § 19(i), formerly § 19 par. (12), as added June 16, 1933, ch. 89, § 11(b), 48 Stat. 181; amended Aug. 23, 1935, ch. 614, title III, § 324(c), 49 Stat. 714; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; renumbered § 19(i), Pub. L. 89–597, § 2(b), Sept. 21, 1966, 80 Stat. 824; Pub. L. 96–161, title I, § 101(a), Dec. 28, 1979, 93 Stat. 1233; Pub. L. 96–221, title III, §§ 302(a), 307, Mar. 31, 1980, 94 Stat. 145, 147, prohibited member banks from paying interest on any deposit payable on demand but included savings provisions and exceptions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Pub. L. 111–203, title VI, § 627(b), July 21, 2010, 124 Stat. 1640, provided that: ''The amendments made by subsection (a) [amending sections 1464 and 1828 of this title and repealing this section] shall take effect 1 year after the date of the enactment of this Act [July 21, 2010].''

§ 371b. Rate of interest on time deposits; payment of time deposits before maturity; waiver of notice requirements for withdrawal of savings deposits

The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, prescribe rules governing the advertisement of interest on deposits by member banks on time and savings deposits. The provisions of this section shall not apply to any deposit which is payable only at an office of a member bank located outside of the States of the United States and the District of Columbia. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this paragraph shall not apply to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

(Dec. 23, 1913, ch. 6, § 19(j), formerly § 19 (par. 13), as added June 16, 1933, ch. 89, § 11(b), 48 Stat. 182; amended Aug. 23, 1935, ch. 614, title III, § 324(c), 49 Stat. 714; Pub. L. 87–827, § 1, Oct. 15, 1962, 76 Stat. 953; Pub. L. 89–79, § 1, July 21, 1965, 79 Stat. 244; renumbered § 19(j) and amended Pub. L. 89–597, § 2(b), (c), Sept. 21, 1966, 80 Stat. 824; Pub. L. 90–505, § 2(a), Sept. 21, 1968, 82 Stat. 856; Pub. L. 96–221, title II, § 207(b)(4)–(6), Mar. 31, 1980, 94 Stat. 144.)

Editorial Notes

AMENDMENTS

1980—Pub. L. 96–221 struck out provisions relating to payment of interest on deposits, prescribing of different limitations by the Board for different classes of deposits, and payment of time deposits before maturity.

1968—Pub. L. 90–505 gave Board power to prescribe rules governing the payment and advertising of interest on deposits.

1966—Pub. L. 89–597, § 2(c), made authority of Board to prescribe maximum permissible rates of interest that may be paid by member banks on time and savings deposits discretionary rather than mandatory, required prior consultations with the FDIC Board and the FHLB Board, authorized different rate limitations for different classes of deposits, for deposits of different amounts, or according to such other reasonable bases as the Board may deem desirable in the public interest, and struck out provision for rate limitation according to the varying discount rates of member banks in the several Federal Reserve districts.

1965—Pub. L. 89–79 extended until Oct. 15, 1968, the period during which the provisions of this paragraph do not apply to the rate of interest payable by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

1962—Pub. L. 87–827 inserted sentence making this paragraph inapplicable, during the period commencing on October 15, 1962, and ending upon the expiration of three years after such date, to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

1935—Act Aug. 23, 1935, among other changes, inserted ''except upon such conditions and in accordance with such rules and regulations as may be prescribed by the said Board'' to second sentence and proviso.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–221, title II, § 207(b), Mar. 31, 1980, 94 Stat. 144, provided in part that the amendment made by that section is effective 6 years after Mar. 31, 1980.

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Pub. L. 89–597, § 7, Sept. 21, 1966, 80 Stat. 825, as amended, formerly set out as an Effective and Termination Dates of 1966 Amendment note under section 461 of this title (which provided in part that amendment of this section by section 2(c) of Pub. L. 89–597 was effective only to Dec. 15, 1980, and that on Dec. 15, 1980, this section was amended to read as it would without the amendment by section 2(c) of Pub. L. 89–597), was repealed by Pub. L. 96–221, title II, § 207(a), Mar. 31, 1980, 94 Stat. 144.

TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101–73, set out as a note under section 1437 of this title.

TIME DEPOSITS; INTEREST RATES, LIMITATION

Pub. L. 93–123, Oct. 15, 1973, 87 Stat. 448, provided that in carrying out the Act of September 21, 1966 (Pub. L. 89–597) [enacting section 1425b of this title, amending sections 355, 371b, 461, and 1828 of this title and section 771 of former Title 31, repealing section 462a–1 of this title, and enacting provisions set out as notes under section 461 of this title] and other provisions of law, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board take action to limit rates of interest or dividends paid on time deposits of less than $100,000 by institutions regulated by them, prior to repeal by Pub. L. 96–221, title II, §207(b)(13), Mar. 31, 1980, 94 Stat. 144, eff. 6 years after Mar. 31, 1980.

§ 371b–1. Repealed. Pub. L. 96–221, title V, § 529, Mar. 31, 1980, 94 Stat. 168

Section, act Dec. 23, 1913, ch. 6, §19(k), as added Dec. 28, 1979, Pub. L. 96–161, title II, §208, 93 Stat. 1238, provided that no member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate could plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which could be charged, taken, received, or reserved, that any such provision was preempted, and that no civil or criminal penalty which would otherwise have been applicable under such provision would apply to such member bank or affiliate or to any other person.

Editorial Notes

PRIOR PROVISIONS

A prior section 371b–1, act Dec. 23, 1913, ch. 6, §19(k), as added Nov. 5, 1979, Pub. L. 96–104, title II, §201, 93 Stat. 792, identical to this section as added by Pub. L. 96–161, was repealed by section 212 of Pub. L. 96–161, effective at the close of Dec. 27, 1979, except that its provisions would continue to apply to deposits made or obligations issued in any State on or after Nov. 5, 1979, but prior to such repeal. See Effective Date of 1979 Amendment note set out below.

A prior section 371b–1, act Dec. 23, 1913, ch. 6, §19(k), as added Oct. 29, 1974, Pub. L. 93–501, title III, §301, 88 Stat. 1560, identical to this section as added by Pub. L. 96–104, was repealed by section 1 of Pub. L. 96–104 except that its provisions shall continue to apply to any deposit made or obligation issued in any State during the period specified in section 304 of Pub. L. 93–501. See Effective and Termination Date of 1974 Amendment note set out below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Pub. L. 96–221, title V, §529, Mar. 31, 1980, 94 Stat. 168, provided in part that the repeal of this section is effective at the close of Mar. 31, 1980.

SAVINGS PROVISION

Pub. L. 96–221, title V, §529, Mar. 31, 1980, 94 Stat. 168, provided in part that, notwithstanding the repeal of Pub. L. 96–104 and title II of Pub. L. 96–161, this section [which had been enacted by those laws] shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when this section was in effect in such State.

EFFECTIVE DATE OF 1979 AMENDMENTS

Prior to repeal by Pub. L. 96–221, title V, §529, Mar. 31, 1980, 94 Stat. 168, it was provided by Pub. L. 96–161, title II, §211, Dec. 28, 1979, 93 Stat. 1239, that: ''The amendments made by sections 208, 209, and 210 of this title [enacting this section and amending sections 1425b and 1828 of this title] shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act [Dec. 28, 1979] and ending on the earliest of—

''(1) in the case of a State statute, July 1, 1980;

''(2) the date, after the date of the enactment of this Act [Dec. 28, 1979], on which such State adopts a law stating in substance that such State does not want the amendments made by sections 208, 209, and 210 of this title to apply with respect to such deposits and obligations; or

''(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act [Dec. 28, 1979], have voted in favor of, or to retain, any law, provision of the constitution of such state, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.''

Prior to its repeal by Pub. L. 96–161, title II, §212, Dec. 28, 1979, 93 Stat. 1239, it was provided by Pub. L. 96–104, title II, §204, Nov. 5, 1979, 93 Stat. 793, that: ''The amendments made by this title [enacting this section and amending sections 1425b and 1828 of this title] shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act [Nov. 5, 1979] and ending on the earlier of—

''(1) July 1, 1981;

''(2) the date, after the date of the enactment of this Act [Nov. 5, 1979], on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

''(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act [Nov. 5, 1979], have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.''

EFFECTIVE AND TERMINATION DATES OF 1974 AMENDMENT

Prior to repeal by Pub. L. 96–104, §1, Nov. 5, 1979, 93 Stat. 789, it was provided by Pub. L. 93–501, title III, §304, Oct. 29, 1974, 88 Stat. 1561, that: ''The amendments made by this title [which enacted this section and amended sections 1425b and 1828 of this title] shall apply to any deposit made or obligation issued in any State after the date of enactment of this title [Oct. 29, 1974], but prior to the earlier of (1) July 1, 1977 or (2) the date (after such date of enactment) on which the State enacts a provision of law which limits the amount of interest which may be charged in connection with deposits or obligations referred to in the amendments made by this title.''

STATES HAVING CONSTITUTIONAL PROVISIONS REGARDING MAXIMUM INTEREST RATES

Pub. L. 96–161, title II, §213, Dec. 28, 1979, 93 Stat. 1240, provided that the provisions of title II of Pub. L. 96–161, which enacted this section, repealed former section 371b–1 of this title, and enacted provisions set out as a note under this section, continued to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

§ 371b–2. Interbank liabilities

(a) Purpose

The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

(b) Aggregate limits on insured depository institutions' exposure to other depository institutions

The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

(c) "Exposure" defined

(1) In general

For purposes of subsection (b), an insured depository institution's ''exposure'' to another depository institution means—

(A) all extensions of credit to the other depository institution, regardless of name or description, including—

(i) all deposits at the other depository institution;

(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

(B) all purchases of or investments in securities issued by the other depository institution;

(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

(2) Exemptions

The Board may, at its discretion, by regulation or order, exempt transactions from the definition of ''exposure'' if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

(3) Attribution rule

For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

(d) Insured depository institution

For purposes of this section, the term ''insured depository institution'' has the same meaning as in section 1813 of this title.

(e) Rulemaking authority; enforcement

The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 1818 of this title.

(Dec. 23, 1913, ch. 6, § 23, as added Pub. L. 102–242, title III, § 308(a), Dec. 19, 1991, 105 Stat. 2362.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 102–242, title III, § 308(c), Dec. 19, 1991, 105 Stat. 2363, provided that: ''The amendment made by this section [enacting this section] shall become effective 1 year after the date of enactment of this Act [Dec. 19, 1991].''

REGULATIONS

Pub. L. 102–242, title III, § 308(b), Dec. 19, 1991, 105 Stat. 2362, provided that: ''The Board shall prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act [12 U.S.C. 371b–2] (as added by subsection (a)).''

§ 371c. Banking affiliates

(a) Restrictions on transactions with affiliates

(1) A member bank and its subsidiaries may engage in a covered transaction with an affiliate only if—

(A) in the case of any affiliate, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 10 per centum of the capital stock and surplus of the member bank; and

(B) in the case of all affiliates, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 20 per centum of the capital stock and surplus of the member bank.

(2) For the purpose of this section, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that affiliate.

(3) A member bank and its subsidiaries may not purchase a low-quality asset from an affiliate unless the bank or such subsidiary, pursuant to an independent credit evaluation, committed itself to purchase such asset prior to the time such asset was acquired by the affiliate.

(4) Any covered transactions and any transactions exempt under subsection (d) between a member bank and an affiliate shall be on terms and conditions that are consistent with safe and sound banking practices.

(b) Definitions

For the purpose of this section—

(1) the term ''affiliate'' with respect to a member bank means—

(A) any company that controls the member bank and any other company that is controlled by the company that controls the member bank;

(B) a bank subsidiary of the member bank;

(C) any company—

(i) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the member bank or any company that controls the member bank; or

(ii) in which a majority of its directors or trustees constitute a majority of the persons holding any such office with the member bank or any company that controls the member bank;

(D) any investment fund with respect to which a member bank or affiliate thereof is an investment adviser; and

(E) any company that the Board determines by regulation or order to have a rela-

tionship with the member bank or any subsidiary or affiliate of the member bank, such that covered transactions by the member bank or its subsidiary with that company may be affected by the relationship to the detriment of the member bank or its subsidiary; and

(2) the following shall not be considered to be an affiliate:

(A) any company, other than a bank, that is a subsidiary of a member bank, unless a determination is made under paragraph (1)(E) not to exclude such subsidiary company from the definition of affiliate;

(B) any company engaged solely in holding the premises of the member bank;

(C) any company engaged solely in conducting a safe deposit business;

(D) any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest; and

(E) any company where control results from the exercise of rights arising out of a bona fide debt previously contracted, but only for the period of time specifically authorized under applicable State or Federal law or regulation or, in the absence of such law or regulation, for a period of two years from the date of the exercise of such rights or the effective date of this Act, whichever date is later, subject, upon application, to authorization by the Board for good cause shown of extensions of time for not more than one year at a time, but such extensions in the aggregate shall not exceed three years;

(3)(A) a company or shareholder shall be deemed to have control over another company if—

(i) such company or shareholder, directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other company;

(ii) such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or

(iii) the Board determines, after notice and opportunity for hearing, that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company; and

(B) notwithstanding any other provision of this section, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraph (1)(C) of this subsection or if the company owning or controlling such shares is a business trust;

(4) the term ''subsidiary'' with respect to a specified company means a company that is controlled by such specified company;

(5) the term ''bank'' includes a State bank, national bank, banking association, and trust company;

(6) the term ''company'' means a corporation, partnership, business trust, association, or similar organization and, unless specifically excluded, the term ''company'' includes a ''member bank'' and a ''bank'';

(7) the term ''covered transaction'' means with respect to an affiliate of a member bank—

(A) a loan or extension of credit to the affiliate, including a purchase of assets subject to an agreement to repurchase;

(B) a purchase of or an investment in securities issued by the affiliate;

(C) a purchase of assets from the affiliate, except such purchase of real and personal property as may be specifically exempted by the Board by order or regulation;

(D) the acceptance of securities or other debt obligations issued by the affiliate as collateral security for a loan or extension of credit to any person or company;

(E) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, on behalf of an affiliate;

(F) a transaction with an affiliate that involves the borrowing or lending of securities, to the extent that the transaction causes a member bank or a subsidiary to have credit exposure to the affiliate; or

(G) a derivative transaction, as defined in paragraph (3) of section 84(b) of this title, with an affiliate, to the extent that the transaction causes a member bank or a subsidiary to have credit exposure to the affiliate;

(8) the term ''aggregate amount of covered transactions'' means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions;

(9) the term ''securities'' means stocks, bonds, debentures, notes, or other similar obligations; and

(10) the term ''low-quality asset'' means an asset that falls in any one or more of the following categories:

(A) an asset classified as ''substandard'', ''doubtful'', or ''loss'' or treated as ''other loans especially mentioned'' in the most recent report of examination or inspection of an affiliate prepared by either a Federal or State supervisory agency;

(B) an asset in a nonaccrual status;

(C) an asset on which principal or interest payments are more than thirty days past due; or

(D) an asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.

(11) REBUTTABLE PRESUMPTION OF CONTROL OF PORTFOLIO COMPANIES.—In addition to paragraph (3), a company or shareholder shall be presumed to control any other company if the company or shareholder, directly or indirectly, or acting through 1 or more other persons, owns or controls 15 percent or more of the equity capital of the other company pursuant to subparagraph (H) or (I) of section 1843(k)(4) of this title or rules adopted under

section 122 of the Gramm-Leach-Bliley Act, if any, unless the company or shareholder provides information acceptable to the Board to rebut this presumption of control.

(c) Collateral for certain transactions with affiliates

(1) Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate by a member bank or its subsidiary, and any credit exposure of a member bank or a subsidiary to an affiliate resulting from a securities borrowing or lending transaction, or a derivative transaction, shall be secured at all times by collateral having a market value equal to—

(A) 100 per centum of the amount of such loan or extension of credit, guarantee, acceptance, letter of credit, or credit exposure, if the collateral is composed of—

(i) obligations of the United States or its agencies;

(ii) obligations fully guaranteed by the United States or its agencies as to principal and interest;

(iii) notes, drafts, bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

(iv) a segregated, earmarked deposit account with the member bank;

(B) 110 per centum of the amount of such loan or extension of credit, guarantee, acceptance, letter of credit, or credit exposure if the collateral is composed of obligations of any State or political subdivision of any State;

(C) 120 per centum of the amount of such loan or extension of credit, guarantee, acceptance, letter of credit, or credit exposure if the collateral is composed of other debt instruments, including receivables; or

(D) 130 per centum of the amount of such loan or extension of credit, guarantee, acceptance, letter of credit, or credit exposure if the collateral is composed of stock, leases, or other real or personal property.

(2) A low-quality asset shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate, or credit exposure to an affiliate resulting from a securities borrowing or lending transaction, or derivative transaction.

(3) The securities or other debt obligations issued by an affiliate of the member bank shall not be acceptable as collateral for a loan or extension of credit to, guarantee, acceptance, or letter of credit issued on behalf of, or credit exposure from a securities borrowing or lending transaction, or derivative transaction to, that affiliate or any other affiliate of the member bank.

(4) The collateral requirements of this paragraph shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is involved in the transaction.

(d) Exemptions

The provisions of this section, except paragraph (a)(4),[1] shall not be applicable to—

(1) any transaction, subject to the prohibition contained in subsection (a)(3), with a bank—

(A) which controls 80 per centum or more of the voting shares of the member bank;

(B) in which the member bank controls 80 per centum or more of the voting shares; or

(C) in which 80 per centum or more of the voting shares are controlled by the company that controls 80 per centum or more of the voting shares of the member bank;

(2) making deposits in an affiliated bank or affiliated foreign bank in the ordinary course of correspondent business, subject to any restrictions that the Board may prescribe by regulation or order;

(3) giving immediate credit to an affiliate for uncollected items received in the ordinary course of business;

(4) making a loan or extension of credit to, issuing a guarantee, acceptance, or letter of credit on behalf of, or having credit exposure resulting from a securities borrowing or lending transaction, or derivative transaction to, an affiliate that is fully secured by—

(A) obligations of the United States or its agencies;

(B) obligations fully guaranteed by the United States or its agencies as to principal and interest; or

(C) a segregated, earmarked deposit account with the member bank;

(5) purchasing securities issued by any company of the kinds described in section 1843(c)(1) of this title;

(6) purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation or, subject to the prohibition contained in subsection (a)(3), purchasing loans on a nonrecourse basis from affiliated banks; and

(7) purchasing from an affiliate a loan or extension of credit that was originated by the member bank and sold to the affiliate subject to a repurchase agreement or with recourse.

(e) Rules relating to banks with financial subsidiaries

(1) Financial subsidiary defined

For purposes of this section and section 371c–1 of this title, the term ''financial subsidiary'' means any company that is a subsidiary of a bank that would be a financial subsidiary of a national bank under section 24a of this title.

(2) Financial subsidiary treated as an affiliate

For purposes of applying this section and section 371c–1 of this title, and notwithstanding subsection (b)(2) of this section or section 371c–1(d)(1) of this title, a financial subsidiary of a bank—

(A) shall be deemed to be an affiliate of the bank; and

(B) shall not be deemed to be a subsidiary of the bank.

[1] So in original. Probably should read ''subsection (a)(4),''.

(3) Anti-evasion provision

For purposes of this section and section 371c–1 of this title—

(A) any purchase of, or investment in, the securities of a financial subsidiary of a bank by an affiliate of the bank shall be considered to be a purchase of or investment in such securities by the bank; and

(B) any extension of credit by an affiliate of a bank to a financial subsidiary of the bank shall be considered to be an extension of credit by the bank to the financial subsidiary if the Board determines that such treatment is necessary or appropriate to prevent evasions of this chapter and the Gramm-Leach-Bliley Act.

(f) Rulemaking and additional exemptions

(1) The Board may issue such further regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of this section and to prevent evasions thereof.

(2)(A) IN GENERAL.—The Board may, at its discretion, by regulation exempt transactions or relationships from the requirements of this section if—

(i) the Board finds the exemption to be in the public interest and consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding; and

(ii) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under clause (i), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

(B) ADDITIONAL EXEMPTIONS.—

(i) NATIONAL BANKS.—The Comptroller of the Currency may, by order, exempt a transaction of a national bank from the requirements of this section if—

(I) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and

(II) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subclause (I), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

(ii) STATE BANKS.—The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State nonmember bank, and the Board may, by order, exempt a transaction of a State member bank, from the requirements of this section if—

(I) the Board and the Federal Deposit Insurance Corporation jointly find that the exemption is in the public interest and consistent with the purposes of this section; and

(II) the Federal Deposit Insurance Corporation finds that the exemption does not present an unacceptable risk to the Deposit Insurance Fund.

(3) RULEMAKING REQUIRED CONCERNING DERIVATIVE TRANSACTIONS AND INTRADAY CREDIT.—

(A) IN GENERAL.—Not later than 18 months after November 12, 1999, the Board shall adopt final rules under this section to address as covered transactions credit exposure arising out of derivative transactions between member banks and their affiliates and intraday extensions of credit by member banks to their affiliates.

(B) EFFECTIVE DATE.—The effective date of any final rule adopted by the Board pursuant to subparagraph (A) shall be delayed for such period as the Board deems necessary or appropriate to permit banks to conform their activities to the requirements of the final rule without undue hardship.

(4) AMOUNTS OF COVERED TRANSACTIONS.—The Board may issue such regulations or interpretations as the Board determines are necessary or appropriate with respect to the manner in which a netting agreement may be taken into account in determining the amount of a covered transaction between a member bank or a subsidiary and an affiliate, including the extent to which netting agreements between a member bank or a subsidiary and an affiliate may be taken into account in determining whether a covered transaction is fully secured for purposes of subsection (d)(4). An interpretation under this paragraph with respect to a specific member bank, subsidiary, or affiliate shall be issued jointly with the appropriate Federal banking agency for such member bank, subsidiary, or affiliate.

(Dec. 23, 1913, ch. 6, §23A, as added June 16, 1933, ch. 89, §13, 48 Stat. 183; amended Aug. 23, 1935, ch. 614, title III, §327, 49 Stat. 717; June 30, 1954, ch. 434, §1, 68 Stat. 358; Pub. L. 86–230, §1(b), Sept. 8, 1959, 73 Stat. 457; Pub. L. 89–485, §§12(a), 13(h), July 1, 1966, 80 Stat. 241, 243; Pub. L. 97–320, title IV, §410(b), Oct. 15, 1982, 96 Stat. 1515; Pub. L. 97–457, §22, Jan. 12, 1983, 96 Stat. 2509; Pub. L. 106–102, title I, §121(b), Nov. 12, 1999, 113 Stat. 1378; Pub. L. 111–203, title VI, §§608(a), 609(a), July 21, 2010, 124 Stat. 1608, 1611.)

Editorial Notes

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (b)(2)(E), probably means the effective date as provided by Pub. L. 97–320, which completely revised this section. Section 410(c) of Pub. L. 97–320 set out as an Effective Date of 1982 Amendment note below, provided that this section shall apply to any transaction entered into after Oct. 15, 1982 with certain exceptions.

The Gramm-Leach-Bliley Act, referred to in subsecs. (b)(11) and (e)(4)(B), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338. Section 122 of the Act is set out as a note under section 1843 of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of this title and Tables.

This chapter, referred to in subsec. (e)(4)(B), was in the original ''this Act'', meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act. For complete classification of this act to the Code, see References in Text note set out under section 226 of this title and Tables.

AMENDMENTS

2010—Subsec. (b)(1)(D). Pub. L. 111–203, § 608(a)(1)(A), added subpar. (D) and struck out former subpar. (D) which read as follows:

''(i) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the member bank or any subsidiary or affiliate of the member bank; or

''(ii) any investment company with respect to which a member bank or any affiliate thereof is an investment advisor as defined in section 80a–2(a)(20) of title 15; and''.

Subsec. (b)(7)(A). Pub. L. 111–203, § 608(a)(1)(B)(i), inserted '', including a purchase of assets subject to an agreement to repurchase'' before semicolon at end.

Subsec. (b)(7)(C). Pub. L. 111–203, § 608(a)(1)(B)(ii), struck out '', including assets subject to an agreement to repurchase,'' after ''purchase of assets''.

Subsec. (b)(7)(D). Pub. L. 111–203, § 608(a)(1)(B)(iii)(I), inserted ''or other debt obligations'' after ''acceptance of securities''.

Subsec. (b)(7)(F), (G). Pub. L. 111–203, § 608(a)(1)(B)(iii)(II), (iv), added subpars. (F) and (G).

Subsec. (c)(1). Pub. L. 111–203, § 608(a)(2)(A)(i), substituted ''subsidiary, and any credit exposure of a member bank or a subsidiary to an affiliate resulting from a securities borrowing or lending transaction, or a derivative transaction, shall be secured at all times'' for ''subsidiary shall be secured at the time of the transaction'' in introductory provisions.

Subsec. (c)(1)(A) to (D). Pub. L. 111–203, § 608(a)(2)(A)(ii), substituted ''letter of credit, or credit exposure'' for ''or letter of credit''.

Subsec. (c)(2). Pub. L. 111–203, § 608(a)(2)(D), inserted '', or credit exposure to an affiliate resulting from a securities borrowing or lending transaction, or derivative transaction'' before period at end.

Pub. L. 111–203, § 608(a)(2)(B), (C), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit, guarantee, acceptance, or letter of credit equal to the minimum percentage required at the inception of the transaction.''

Subsec. (c)(3). Pub. L. 111–203, § 608(a)(2)(E), inserted ''or other debt obligations'' after ''securities'' and substituted ''guarantee, acceptance, or letter of credit issued on behalf of, or credit exposure from a securities borrowing or lending transaction, or derivative transaction to,'' for ''or guarantee, acceptance, or letter of credit issued on behalf of,''.

Pub. L. 111–203, § 608(a)(2)(C), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (c)(4), (5). Pub. L. 111–203, § 608(a)(2)(C), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (d)(4). Pub. L. 111–203, § 608(a)(3), substituted ''issuing a guarantee, acceptance, or letter of credit on behalf of, or having credit exposure resulting from a securities borrowing or lending transaction, or derivative transaction to,'' for ''or issuing a guarantee, acceptance, or letter of credit on behalf of,'' in introductory provisions.

Subsec. (e)(3), (4). Pub. L. 111–203, § 609(a), redesignated par. (4) as (3) and struck out former par. (3). Prior to amendment, text of par. (3) read as follows:

''(A) EXCEPTION FROM LIMIT ON COVERED TRANSACTIONS WITH ANY INDIVIDUAL FINANCIAL SUBSIDIARY.—Notwithstanding paragraph (2), the restriction contained in subsection (a)(1)(A) of this section shall not apply with respect to covered transactions between a bank and any individual financial subsidiary of the bank.

''(B) EXCEPTION FOR EARNINGS RETAINED BY FINANCIAL SUBSIDIARIES.—Notwithstanding paragraph (2) or subsection (b)(7) of this section, a bank's investment in a financial subsidiary of the bank shall not include retained earnings of the financial subsidiary.''

Subsec. (f)(2). Pub. L. 111–203, § 608(a)(4)(A)(iii), which directed ''striking the Board and inserting'' subpar. (A) designation and heading, followed by ''The Board'', was executed by inserting subpar. (A) designation and heading before ''The Board'' as it appeared, to reflect the probable intent of Congress.

Pub. L. 111–203, § 608(a)(4)(A)(ii), substituted ''if—'' for ''if it finds such exemptions to be in the public interest and consistent with the purposes of this section.'' and added cls. (i) and (ii).

Pub. L. 111–203, § 608(a)(4)(A)(i), struck out ''or order'' after ''regulation''.

Subsec. (f)(2)(B). Pub. L. 111–203, § 608(a)(4)(A)(iv), added subpar. (B).

Subsec. (f)(4). Pub. L. 111–203, § 608(a)(4)(B), added par. (4).

1999—Subsec. (b)(11). Pub. L. 106–102, § 121(b)(2), added par. (11).

Subsec. (e). Pub. L. 106–102, § 121(b)(1)(B), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 106–102, § 121(b)(1)(A), (3), redesignated subsec. (e) as (f) and added par. (3).

1983—Subsec. (d)(1). Pub. L. 97–457, § 22(1), substituted ''subject to the prohibition contained in subsection (a)(3)'' for ''except for the purchase of a low-quality asset which is prohibited''.

Subsec. (d)(6). Pub. L. 97–457, § 22(2), inserted '', subject to the prohibition contained in subsection (a)(3),'' after ''market quotation or''.

1982—Pub. L. 97–320 amended section generally by substituting provisions in lettered subsections relating to restrictions on transactions with affiliates, collateral for such transactions, exemptions for certain transactions and rulemaking and additional exemptions, for prior undesignated paragraphs which read as follows:

''No member bank shall (1) make any loan or any extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates, or (2) invest any of its funds in the capital stock, bonds, debentures, or other such obligations of any such affiliate, or (3) accept the capital stock, bonds, debentures, or other such obligations of any such affiliate as collateral security for advances made to any person, partnership, association, or corporation, if, in the case of any such affiliate, the aggregate amount of such loans, extensions of credit, repurchase agreements, investments, and advances against such collateral security will exceed 10 per centum of the capital stock and surplus of such member bank, or if, in the case of all such affiliates, the aggregate amount of such loans, extensions of credits, repurchase agreements, investments, and advances against such collateral security will exceed 20 per centum of the capital stock and surplus of such member bank.

''Within the foregoing limitations, each loan or extension of credit of any kind or character to an affiliate shall be secured by collateral in the form of stocks, bonds, debentures, or other such obligations having a market value at the time of making the loan or extension of credit of at least 20 per centum more than the amount of the loan or extension of credit, or of at least 10 per centum more than the amount of the loan or extension of credit if it is secured by obligations of any State or of any political subdivision or agency thereof: *Provided*, That the provisions of this paragraph shall not apply to loans or extensions of credit secured by obligations of the United States Government, the Federal intermediate credit banks, the Federal land banks, or the Federal Home Loan Banks, or by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal Reserve Banks. A loan or extension of credit to a director, officer, clerk, or other employee, or any representative of any such affiliate, shall be deemed a loan to the affiliate to the extent that the proceeds of such loan are used for the benefit of or transferred to the affiliate.

''The provisions of this section shall not apply to any affiliate (1) engaged solely in holding the bank premises of the member bank with which it is affiliated; (2) engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation or livestock loan company; (3) in the capital stock of

which a national banking association is authorized to invest pursuant to section 25 of this Act, as amended [12 U.S.C. 601 et seq.], or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (4) organized under section 25(a) of this Act, as amended [12 U.S.C. 611 et seq.], of this title, or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (5) engaged solely in holding obligations of the United States or obligations fully guaranteed by the United States as to principal and interest, the Federal intermediate credit banks, the Federal land banks, the Federal Home Loan Banks; (6) where the affiliate relationship has arisen out of a bona fide debt contracted prior to the date of the creation of such relationship; or (7) where the affiliate relationship exists by reason of the ownership or control of any voting shares thereof by a member bank as executor, administrator, trustee, receiver, agent, depositary, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the stockholders of such member bank; but as to any such affiliate, member banks shall continue to be subject to other provisions of law applicable to loans by such banks and investments by such banks in stocks, bonds, debentures, or other such obligations. The provisions of this section shall likewise not apply to indebtedness of any affiliate for unpaid balances due a bank on assets purchased from such bank or to loans secured by, or extensions of credit against, obligations of the United States or obligations fully guaranteed by the United States as to principal and interest.

''For the purposes of this section, (1) the term 'extension of credit' and 'extensions of credit' shall be deemed to include (A) any purchase of securities, other assets or obligations under repurchase agreement, and (B) the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, except that the acquisition of such paper by a member bank from another bank, without recourse, shall not be deemed to be a 'discount' by such member bank for such other bank; and (2) noninterest-bearing deposits to the credit of a bank shall not be deemed to be a loan or advance or extension of credit to the bank of deposit, nor shall the giving of immediate credit to a bank upon uncollected items received in the ordinary course of business be deemed to be a loan or advance or extension of credit to the depositing bank.

''For the purposes of this section, the term 'affiliate' shall include, with respect to any member bank, any bank holding company of which such member bank is a subsidiary within the meaning of the Bank Holding Company Act of 1956, as amended [12 U.S.C. 1841 et seq.], and any other subsidiary of such company.

''The provisions of this section shall not apply to (1) stock, bonds, debentures, or other obligations of any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956, as amended [12 U.S.C. 1843(c)(1)]; (2) stock, bonds, debentures, or other obligations accepted as security for debts previously contracted, provided that such collateral shall not be held for a period of over two years; (3) shares which are of the kinds and amounts eligible for investment by national banks under the provisions of section 24 of this title; (4) any extension of credit by a member bank to a bank holding company of which such bank is a subsidiary or to another subsidiary of such bank holding company, if made within one year after July 1, 1966, and pursuant to a contract lawfully entered into prior to January 1, 1966; or (5) any transaction by a member bank with another bank the deposits of which are insured by the Federal Deposit Insurance Corporation, if more than 50 per centum of the voting stock of such other bank is owned by the member bank or held by trustees for the benefit of the shareholders of the member bank.''

1966—Pub. L. 89–485 added last three pars. and struck out from third par. introductory statement that term ''affiliate'' shall include holding company affiliates as well as other affiliates, respectively. Such added pars. make ''extension of credit'' cover all purchases under repurchase agreements and the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, excluding therefrom such discounts by one bank for another, if without recourse, exclude from being deemed a loan, advance, or extension of credit noninterest bearing deposits to the credit of a bank or the giving of immediate credit to a bank for uncollected items received in the ordinary course of business, define term ''affiliate'' (superseding one stricken from par. three), and exempt stocks, bonds, debentures, or other obligations of companies described in section 4(c)(1) of the Bank Holding Company Act of 1956, as amended; or accepted as security for debts previously contracted, shares of the kind and amounts eligible for investment by national banks under section 24 of this title, loans by a bank to its holding company or a fellow subsidiary if made within one year after July 1, 1966 and pursuant to a contract lawfully entered before Jan. 1, 1966, and transactions between a member bank and a majority-owned insured bank.

1959—Pub. L. 86–230 struck out from second and third pars. references to Home Owners' Loan Corporation after Federal Home Loan Banks.

1954—Act June 30, 1954, amended third par. substituting ''solely'' for ''on June 16, 1934'' after ''(1) engaged'' and struck out ''or in maintaining and operating properties acquired for banking purposes prior to such date'' after ''is affiliated''.

1935—Act Aug. 23, 1935, amended third par.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title VI, §608(d), July 21, 2010, 124 Stat. 1611, provided that: ''The amendments made by this section [amending this section and sections 371c–1 and 1468 of this title] shall take effect 1 year after the transfer date.''

[For definition of ''transfer date'' as used in section 608(d) of Pub. L. 111–203, set out above, see section 5301 of this title.]

Pub. L. 111–203, title VI, §609(b), (c), July 21, 2010, 124 Stat. 1611, provided that:

''(b) PROSPECTIVE APPLICATION OF AMENDMENT.—The amendments made by this section [amending this section] shall apply with respect to any covered transaction between a bank and a subsidiary of the bank, as those terms are defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), that is entered into on or after the date of enactment of this Act [July 21, 2010].

''(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.''

[For definition of ''transfer date'' as used in section 609(b), (c) of Pub. L. 111–203, set out above, see section 5301 of this title.]

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–102 effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106–102, set out as a note under section 24 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–320, title IV, §410(c), Oct. 15, 1982, 96 Stat. 1520, provided that: ''Section 23A of the Federal Reserve Act, as amended by this section [this section], shall apply to any transaction entered into after the date of enactment of this Act [Oct. 15, 1982], except for transactions which are the subject of a binding written contract or commitment entered into on or before July 28, 1982, and except that any renewal of a participation in a loan outstanding on July 28, 1982, to a company that becomes an affiliate as a result of the enactment of this Act [see section 1 of Pub. L. 97–320, set out as a Short Title of 1982 Amendments note under section 226 of this title], or any participation in a loan to such an

affiliate emanating from the renewal of a binding written contract or commitment outstanding on July 28, 1982, shall not be subject to the collateral requirements of this Act.''

§ 371c–1. Restrictions on transactions with affiliates

(a) In general

(1) Terms

A member bank and its subsidiaries may engage in any of the transactions described in paragraph (2) only—

(A) on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such bank or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies, or

(B) in the absence of comparable transactions, on terms and under circumstances, including credit standards, that in good faith would be offered to, or would apply to, nonaffiliated companies.

(2) Transactions covered

Paragraph (1) applies to the following:

(A) Any covered transaction with an affiliate.

(B) The sale of securities or other assets to an affiliate, including assets subject to an agreement to repurchase.

(C) The payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise.

(D) Any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or to any other person.

(E) Any transaction or series of transactions with a third party—

(i) if an affiliate has a financial interest in the third party, or

(ii) if an affiliate is a participant in such transaction or series of transactions.

(3) Transactions that benefit affiliate

For the purpose of this subsection, any transaction by a member bank or its subsidiary with any person shall be deemed to be a transaction with an affiliate of such bank if any of the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

(b) Prohibited transactions

(1) In general

A member bank or its subsidiary—

(A) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchase is permitted—

(i) under the instrument creating the fiduciary relationship,

(ii) by court order, or

(iii) by law of the jurisdiction governing the fiduciary relationship; and

(B) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security if a principal underwriter of that security is an affiliate of such bank.

(2) Exception

Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank based on a determination that the purchase is a sound investment for the bank irrespective of the fact that an affiliate of the bank is a principal underwriter of the securities.

(3) Definitions

For the purpose of this subsection—

(A) the term ''security'' has the meaning given to such term in section 78c(a)(10) of title 15; and

(B) the term ''principal underwriter'' means any underwriter who, in connection with a primary distribution of securities—

(i) is in privity of contract with the issuer or an affiliated person of the issuer;

(ii) acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate; or

(iii) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

(c) Advertising restriction

A member bank or any subsidiary or affiliate of a member bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates.

(d) Definitions

For the purpose of this section—

(1) the term ''affiliate'' has the meaning given to such term in section 371c of this title (but does not include any company described in section [1] (b)(2) of such section or any bank);

(2) the terms ''bank'', ''subsidiary'', ''person'', and ''security'' (other than security as used in subsection (b)) have the meanings given to such terms in section 371c of this title; and

(3) the term ''covered transaction'' has the meaning given to such term in section 371c of this title (but does not include any transaction which is exempt from such definition under subsection (d) of such section).

(e) Regulations

(1) In general

The Board may prescribe regulations to administer and carry out the purposes of this section, including—

(A) regulations to further define terms used in this section; and

(B) subject to paragraph (2), if the Board finds that an exemption or exclusion is in the public interest and is consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding, regulations to—

(i) exempt transactions or relationships from the requirements of this section; and

(ii) exclude any subsidiary of a bank holding company from the definition of affiliate for purposes of this section.

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[1] So in original. Probably should be ''subsection''.

(2) Exception

The Board may grant an exemption or exclusion under this subsection only if, during the 60-day period beginning on the date of receipt of notice of the finding from the Board under paragraph (1)(B), the Federal Deposit Insurance Corporation does not object, in writing, to such exemption or exclusion, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

(Dec. 23, 1913, ch. 6, § 23B, as added Pub. L. 100–86, title I, § 102(a), Aug. 10, 1987, 101 Stat. 564; amended Pub. L. 106–102, title VII, § 738, Nov. 12, 1999, 113 Stat. 1480; Pub. L. 111–203, title VI, § 608(b), July 21, 2010, 124 Stat. 1610.)

Editorial Notes

AMENDMENTS

2010—Subsec. (e). Pub. L. 111–203, § 608(b)(1)–(4), designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), redesignated former subpars. (A) and (B) of par. (2) as cls. (i) and (ii), respectively, of par. (1)(B), realigned margins, and struck out concluding provisions which read as follows: ''if the Board finds such exemptions or exclusions are in the public interest and are consistent with the purposes of this section.''

Subsec. (e)(1)(B). Pub. L. 111–203, § 608(b)(5)(A), inserted ''subject to paragraph (2), if the Board finds that an exemption or exclusion is in the public interest and is consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding,'' before ''regulations'' in introductory provisions.

Subsec. (e)(1)(B)(ii). Pub. L. 111–203, § 608(b)(5)(B), substituted period for comma at end.

Subsec. (e)(2). Pub. L. 111–203, § 608(b)(6), added par. (2).

1999—Subsec. (b)(2). Pub. L. 106–102 amended text of par. (2) generally. Prior to amendment, text read as follows: ''Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 year after the transfer date, see section 608(d) of Pub. L. 111–203, set out as a note under section 371c of this title.

§ 371d. Investment in bank premises or stock of corporation holding premises

(a) Conditions of investment

No national bank or State member bank shall invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank, or make loans to or upon the security of any such corporation—

(1) unless the bank receives the prior approval of the Comptroller of the Currency (with respect to a national bank) or the Board (with respect to a State member bank);

(2) unless the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation that is an affiliate of the bank, is less than or equal to the amount of the capital stock of such bank; or

(3) unless—

(A) the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation that is an affiliate of the bank, is less than or equal to 150 percent of the capital and surplus of the bank; and

(B) the bank—

(i) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such bank;

(ii) is well capitalized and will continue to be well capitalized after the investment or loan; and

(iii) provides notification to the Comptroller of the Currency (with respect to a national bank) or to the Board (with respect to a State member bank) not later than 30 days after making the investment or loan.

(b) Definitions

For purposes of this section—

(1) the term ''affiliate'' has the same meaning as in section 221a of this title; and

(2) the term ''well capitalized'' has the same meaning as in section 1831*o*(b) of this title.

(Dec. 23, 1913, ch. 6, § 24A, as added June 16, 1933, ch. 89, § 14, 48 Stat. 184; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; June 30, 1954, ch. 434, § 2, 68 Stat. 358; Pub. L. 104–208, div. A, title II, § 2206, Sept. 30, 1996, 110 Stat. 3009–405.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104–208 inserted section catchline and amended text generally. Prior to amendment, text read as follows: ''No national bank, without the approval of the Comptroller of the Currency, and no State member bank, without the approval of the Board of Governors of the Federal Reserve System, shall (1) invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank, or (2) make loans to or upon the security of the stock of any such corporation, if the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank, as defined in section 221a of this title, will exceed the amount of the capital stock of such bank.''

1954—Act June 30, 1954, inserted ''together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank, as defined in section 221a 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.

Executive Documents

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 372. Bankers' acceptances

(a) Institutions; drafts and bills of exchange; types

Any member bank and any Federal or State branch or agency of a foreign bank subject to reserve requirements under section 3105 of this title (hereinafter in this section referred to as ''institutions''), may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace—

(i) which grow out of transactions involving the importation or exportation of goods;

(ii) which grow out of transactions involving the domestic shipment of goods; or

(iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.

(b) Ratio limit of bills to unimpaired capital stock and surplus

Except as provided in subsection (c), no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subsection (h).

(c) Authorization for special ratio limit; foreign banks

The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any institution to accept such bills, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subsection (h).

(d) Ratio limit for domestic transactions

Notwithstanding subsections (b) and (c), with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participation share in such acceptances, authorized for such institution under this section.

(e) Ratio limit for single entity; foreign banks; security

No institution shall accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an amount equal at any time in the aggregate to more than 10 per centum of its paid up and unimpaired capital stock and surplus, or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subsection (h), unless the institution is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

(f) Exception for participation agreements

With respect to an institution which issues an acceptance, the limitations contained in this section shall not apply to that portion of an acceptance which is issued by such institution and which is covered by a participation agreement sold to another institution.

(g) Definitions by Board

In order to carry out the purposes of this section, the Board may define any of the terms used in this section, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this section shall apply.

(h) Dollar equivalent of foreign bank paid-up capital stock and surplus

Any limitation or restriction in this section based on paid-up and unimpaired capital stock and surplus of an institution shall be deemed to refer, with respect to a United States branch or agency of a foreign bank, to the dollar equivalent of the paid-up capital stock and surplus of the foreign bank, as determined by the Board, and if the foreign bank has more than one United States branch or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation or restriction.

(Dec. 23, 1913, ch. 6, § 13 (par.), 38 Stat. 264; Mar. 3, 1915, ch. 93, 38 Stat. 958; Sept. 7, 1916, ch. 461, 39 Stat. 752; June 21, 1917, ch. 32, § 5, 40 Stat. 235; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Pub. L. 97–290, title II, § 207, Oct. 8, 1982, 96 Stat. 1239.)

Editorial Notes

REFERENCES IN TEXT

Section 3105 of this title, referred to in subsec. (a), was in the original a reference to section 7 of the International Banking Act of 1978, Pub. L. 95–369, Sept. 17, 1978, 92 Stat. 620, which enacted sections 347d and 3105 of this title.

CODIFICATION

Section is comprised of the seventh par. of section 13 of act Dec. 23, 1913, as amended. The seventh par. constituted the fifth par. of section 13 in 1916 (39 Stat. 752), became the sixth par. in 1923 (42 Stat. 1478), and became the seventh par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 343 and 344 of this title. For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

The seventh par. of section 13 of the Federal Reserve Act [this section] as amended in 1982 by Pub. L. 97–290 contained lettered subpars. (A) through (H). For purposes of codification those lettered subpars. (A) through (H) have been translated as subsecs. (a) through (h), ''paragraph'' has been translated as ''section'', and ''subparagraph'' has been translated as ''subsection''.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–290 designated first sentence of existing provisions as subsec. (a), inserted reference to foreign banks and their subdivisions, further designated the specifications for drafts or bills as cl. (i)–(iii), and in cl. (ii) as so designated, struck out requirement that shipping documents conveying or securing title be attached at acceptance.

Subsec. (b). Pub. L. 97–290 designated second independent clause of second sentence of existing provisions as subsec. (b), substituted ''no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus'' for ''no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid-up and unimpaired capital stock and surplus'' and inserted provisions relating to a United States branch or agency of a foreign bank.

Subsec. (c). Pub. L. 97–290 designated first proviso of second sentence of existing provisions as subsec. (c), struck out provision applying the subsec. to all banks regardless of capital stock or surplus, substituted a limit of 200 per centum for 100 per centum, and inserted provisions relating to a United States branch or agency of a foreign bank.

Subsec. (d). Pub. L. 97–290 designated second proviso of second sentence of existing provisions as subsec. (d), substituted ''Notwithstanding subsections (b) and (c), with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participation share in such acceptances, authorized for such institution under this section.'' for ''*Provided further*, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed 50 per centum of such capital stock and surplus.''

Subsec. (e). Pub. L. 97–290 designated first independent clause of second sentence of existing provisions as subsec. (e), substituted ''institution'' for ''member bank'' and ''bank'' and ''accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an amount'' for ''accept, whether in a foreign or domestic transaction, for any one person, company, firm, or corporation to an amount'', and inserted provisions relating to a United States branch or agency of a foreign bank.

Subsecs. (f) to (h). Pub. L. 97–290 added subsecs. (f) to (h).

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.

§ 373. Acceptance of drafts or bills drawn by banks in foreign countries or dependencies of United States for purpose of dollar exchange

Any member bank may accept drafts or bills of exchange drawn upon it having not more than three months' sight to run, exclusive of days of grace, drawn under regulations to be prescribed by the Board of Governors of the Federal Reserve System by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies, or insular possessions. Such drafts or bills may be acquired by Federal reserve banks in such amounts and subject to such regulations, restrictions, and limitations as may be prescribed by the Board of Governors of the Federal Reserve System: *Provided, however*, That no member bank shall accept such drafts or bills of exchange referred to[1] this paragraph for any one bank to an amount exceeding in the aggregate ten per centum of the paid-up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security: *Provided further*, That no member bank shall accept such drafts or bills in an amount exceeding at any time the aggregate of one-half of its paid-up and unimpaired capital and surplus.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 754; amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

Editorial Notes

CODIFICATION

Section is based on the twelfth par. of section 13 of act Dec. 23, 1913, as amended. The twelfth par. constituted the tenth par. of section 13 in 1916 (39 Stat. 754), became the eleventh par. in 1923 (42 Stat. 1478), and became the twelfth par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 342 to 344 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

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

§ 374. Acting as agent for nonmember bank in getting discounts from reserve bank

No member bank shall act as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal reserve bank under the provisions of this chapter, except by permission of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 19(e), formerly § 19 (par. 8), 38 Stat. 270; June 21, 1917, ch. 32, § 10, 40 Stat. 239; Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 19(e), Pub. L. 89–597, § 2(b), Sept. 21, 1966, 80 Stat. 824.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

CODIFICATION

Section is comprised of part of subsec. (e), formerly eighth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89–597. Remainder of subsec. (e) of such section 19 is classified to section 463 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.

§ 374a. Acting as agent for nonbanking borrower in making loans on securities to dealers in stocks, bonds, etc.; penalties

No member bank shall act as the medium or agent of any nonbanking corporation, partner-

[1] So in original. Probably should be followed by ''in''.

ship, association, business trust, or individual in making loans on the security of stocks, bonds, and other investment securities to brokers or dealers in stocks, bonds, and other investment securities. Every violation of this provision by any member bank shall be punishable by a fine of not more than $100 per day during the continuance of such violation; and such fine may be collected, by suit or otherwise, by the Federal reserve bank of the district in which such member bank is located.

(Dec. 23, 1913, ch. 6, § 19(d), formerly § 19 (par. 7), as added June 16, 1933, ch. 89, § 11(a), 48 Stat. 181; renumbered § 19(d), Pub. L. 89–597, § 2(b), Sept. 21, 1966, 80 Stat. 824.)

Editorial Notes

CODIFICATION

Section is comprised of subsec. (d), formerly seventh par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89–597.

§ 375. [Reserved]

(Dec. 23, 1913, ch. 6, § 22(d), as added Sept. 26, 1918, ch. 177, § 5, 40 Stat. 971; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; Pub. L. 111–203, title VI, § 615(b), July 21, 2010, 124 Stat. 1615.)

Editorial Notes

AMENDMENTS

2010—Pub. L. 111–203 substituted ''[Reserved]'' for text, which related to purchases from directors and sales to directors.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title VI, § 615(c), July 21, 2010, 124 Stat. 1615, provided that: ''The amendments made by this section [amending this section and section 1828 of this title] shall take effect on the transfer date.''

[For definition of ''transfer date'' as used in section 615(c) of Pub. L. 111–203, set out above, see section 5301 of this title.]

§ 375a. Loans to executive officers of banks

(1) General prohibition; authorization for extension of credit; conditions for credit

Except as authorized under this section, no member bank may extend credit in any manner to any of its own executive officers. No executive officer of any member bank may become indebted to that member bank except by means of an extension of credit which the bank is authorized to make under this section. Any extension of credit under this section shall be promptly reported to the board of directors of the bank, and may be made only if—

(A) the bank would be authorized to make it to borrowers other than its officers;

(B) it is on terms not more favorable than those afforded other borrowers;

(C) the officer has submitted a detailed current financial statement; and

(D) it is on condition that it shall become due and payable on demand of the bank at any time when the officer is indebted to any other bank or banks on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) in an aggregate amount greater than the amount of credit of the same category that could be extended to him by the bank of which he is an officer.

(2) Mortgage loans

A member bank may make a loan to any executive officer of the bank if, at the time the loan is made—

(A) it is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence, and

(B) no other loan by the bank to the officer under authority of this paragraph is outstanding.

(3) Educational loans

A member bank may make extensions of credit to any executive officer of the bank to finance the education of the children of the officer.

(4) General limitation on amount of credit

A member bank may make extensions of credit not otherwise specifically authorized under this section to any executive officer of the bank, in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency.

(5) Partnership loans

Except to the extent permitted under paragraph (4), a member bank may not extend credit to a partnership in which one or more of its executive officers are partners having either individually or together a majority interest. For the purposes of paragraph (4), the full amount of any credit so extended shall be considered to have been extended to each officer of the bank who is a member of the partnership.

(6) Endorsement or guarantee of loans or assets; protective indebtedness

This section does not prohibit any executive officer of a member bank from endorsing or guaranteeing for the protection of the bank any loan or other asset previously acquired by the bank in good faith or from incurring any indebtedness to the bank for the purpose of protecting the bank against loss or giving financial assistance to it.

(7) Continuation of violation

Each day that any extension of credit in violation of this section exists is a continuation of the violation for the purposes of section 1818 of this title.

(8) Rules and regulations; definitions

The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of this section.

(Dec. 23, 1913, ch. 6, § 22(g), as added June 16, 1933, ch. 89, § 12, 48 Stat. 182; amended June 14, 1935, ch. 245, 49 Stat. 375; Aug. 23, 1935, ch. 614, title III, § 326(c), 49 Stat. 716; Apr. 25, 1938, ch. 173, 52 Stat. 223; June 20, 1939, ch. 214, § 1, 53 Stat. 842; Pub. L. 90–44, § 1, July 3, 1967, 81 Stat. 109; Pub. L. 95–630, title I, § 110, Nov. 10, 1978, 92 Stat. 3665;

Pub. L. 97–320, title IV, § 421, Oct. 15, 1982, 96 Stat. 1522; Pub. L. 103–325, title III, § 334(a), Sept. 23, 1994, 108 Stat. 2233; Pub. L. 109–351, title VI, § 601(a), Oct. 13, 2006, 120 Stat. 1978.)

Editorial Notes

CODIFICATION

Proviso which permitted renewal or extension of loans made to executive officers prior to June 16, 1933, for periods expiring not more than five years from June 16, 1939, was omitted as obsolete.

AMENDMENTS

2006—Pars. (6) to (10). Pub. L. 109–351 redesignated pars. (7), (8), and (10) as (6), (7), and (8), respectively, and struck out former pars. (6) and (9) which related to report of date and amount of credit extensions, security, and uses of proceeds upon excessive extension of credit and report of loan activity since previous report of condition, respectively.

1994—Par. (2). Pub. L. 103–325 in introductory provisions substituted ''A member'' for ''With the specific prior approval of its board of directors, a member''.

1982—Par. (2). Pub. L. 97–320, § 421(a), struck out ''not exceeding $60,000'' after ''may make a loan''.

Par. (3). Pub. L. 97–320, § 421(a), struck out '', not exceeding the aggregate amount of $20,000 outstanding at any one time,'' after ''officer of the bank''.

Par. (4). Pub. L. 97–320, § 421(b), substituted ''in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency'' for ''not exceeding the aggregate amount of $10,000 outstanding at any one time''.

1978—Par. (2). Pub. L. 95–630 substituted ''$60,000'' for ''$30,000''.

Par. (3). Pub. L. 95–630 substituted ''$20,000'' for ''$10,000''.

Par. (4). Pub. L. 95–630 substituted ''$10,000'' for ''$5,000''.

1967—Par. (1). Pub. L. 90–44 rewrote in first sentence of provisions designated as par. (1) the prohibition of former first sentence against any executive officer borrowing or otherwise becoming indebted to a member bank of which he is an officer and against any member bank making any loan or extending credit in any other manner to any of its own executive officers, authorized member banks to extend credit to such executive officers and to report such extensions to the board of directors, and provided in subpars. (A) to (D) conditions for such extension of credit.

Pars. (2), (3). Pub. L. 90–44 inserted provisions, designated as pars. (2) and (3), for mortgage loans and educational loans, respectively.

Par. (4). Pub. L. 90–44 incorporated proviso of first sentence in provisions designated as par. (4), increased amount of available credit from $2,500 to $5,000, and struck out requirement of prior approval of credit by majority of entire board of directors.

Par. (5). Pub. L. 90–44 substituted provisions, designated as par. (5), for extension of credit to partnerships for former provisions of third sentence that ''Borrowing by, or loaning to, a partnership in which one or more executive officers of a member bank are partners having either individually or together a majority interest in said partnership, shall be considered within the prohibition of this section''.

Par. (6). Pub. L. 90–44 incorporated reporting requirement of second sentence in provisions designated as par. (6) but limited it to extensions of credit from other banks to the executive officers as exceeded amounts available to such officers from their member banks under pars. (2) to (4) of this section.

Par. (7). Pub. L. 90–44 designated provisions of fourth sentence as par. (7).

Par. (8). Pub. L. 90–44 designated proviso of sixth sentence as par. (8) and identified the violation as one for purposes of section 1818 of this title.

Par. (9). Pub. L. 90–44 added requirement, designated as par. (9), that member banks report all loans made under authority of this section since previous report of condition.

Par. (10). Pub. L. 90–44 designated provisions of fifth sentence as par. (10) and substituted general authorization for definition of terms for former specific authorization for definition of ''executive officer'' and for determination what shall be deemed to be a borrowing, indebtedness, loan, or extension of credit.

Pub. L. 90–44 struck out former sixth sentence, less proviso, which provided for removal from office in manner prescribed in former section 77 of this title of any executive officer of member bank accepting a loan or extension of credit in violation of this section.

1939—Act June 20, 1939, substituted ''June 16, 1939,'' for ''from such date'', in first sentence.

1938—Par. (1). Act Apr. 25, 1938, substituted ''six'' for ''five'' in first sentence.

1935—Act Aug. 23, 1935, added last two provisos.

Act June 14, 1935, struck out a proviso and inserted in lieu thereof first proviso.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective upon expiration of 120 days after Nov. 10, 1978, see sec. 2101 of Pub. L. 95–630 set out as an Effective Date note under section 375b of this title.

§ 375b. Extensions of credit to executive officers, directors, and principal shareholders of member banks

(1) In general

No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), (5), and (6).

(2) Preferential terms prohibited

(A) In general

A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

(i) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank;

(ii) does not involve more than the normal risk of repayment or present other unfavorable features; and

(iii) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.

(B) Exception

Nothing in this paragraph shall prohibit any extension of credit made pursuant to a benefit or compensation program—

(i) that is widely available to employees of the member bank; and

(ii) that does not give preference to any officer, director, or principal shareholder of the member bank, or to any related interest of such person, over other employees of the member bank.

(3) Prior approval required

A member bank may extend credit to a person described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 1813 of this title) only if—

(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

(4) Aggregate limit on extensions of credit to any executive officer, director, or principal shareholder

A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 84 of this title. For purposes of this paragraph, section 84 of this title shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

(5) Aggregate limit on extensions of credit to all executive officers, directors, and principal shareholders

(A) In general

A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

(B) More stringent limit authorized

The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

(C) Board may make exceptions for certain banks

The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.

(6) Overdrafts by executive officers and directors prohibited

(A) In general

If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

(B) Exceptions

Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

(i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; or

(ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

(7) Prohibition on knowingly receiving unauthorized extension of credit

No executive officer, director, or principal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this section.

(8) Executive officer, director, or principal shareholder of certain affiliates treated as executive officer, director, or principal shareholder of member bank

(A) In general

For purposes of this section, any executive officer, director, or principal shareholder (as the case may be) of any company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

(B) Exception

The Board may, by regulation, make exceptions to subparagraph (A) for any executive officer or director of a subsidiary of a company that controls the member bank if—

(i) the executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank; and

(ii) the assets of such subsidiary do not exceed 10 percent of the consolidated assets of a company that controls the member bank and such subsidiary (and is not controlled by any other company).

(9) Definitions

For purposes of this section:

(A) Company

(i) In general

Except as provided in clause (ii), the term ''company'' means any corporation, partnership, business or other trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

(ii) Exceptions

The term ''company'' does not include—

(I) an insured depository institution (as defined in section 1813 of this title); or

(II) a corporation the majority of the shares of which are owned by the United States or by any State.

(B) Control

A person controls a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

(i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;

(ii) controls in any manner the election of a majority of the company's directors; or

(iii) has the power to exercise a controlling influence over the company's management or policies.

(C) Executive officer

A person is an ''executive officer'' of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

(D) Extension of credit

(i) In general

A member bank extends credit to a person by—

(I) making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which the person becomes obligated (directly or indirectly, or by any means whatsoever) to pay money or its equivalent to the bank; or

(II) having credit exposure to the person arising from a derivative transaction (as defined in section 84(b) of this title), repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the member bank and the person.

(ii) Exceptions

The Board may, by regulation, make exceptions to clause (i) for transactions that the Board determines pose minimal risk.

(E) Member bank

The term ''member bank'' includes any subsidiary of a member bank.

(F) Principal shareholder

The term ''principal shareholder''—

(i) means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company; and

(ii) does not include a company of which a member bank is a subsidiary.

(G) Related interest

A ''related interest'' of a person is—

(i) any company controlled by that person; and

(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

(H) Subsidiary

The term ''subsidiary'' has the same meaning as in section 1841 of this title.

(10) Board's rulemaking authority

The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this section.

(Dec. 23, 1913, ch. 6, §22(h), as added Pub. L. 95–630, title I, §104, Nov. 10, 1978, 92 Stat. 3644; amended Pub. L. 97–320, title IV, §§410(e), 422, Oct. 15, 1982, 96 Stat. 1520, 1522; Pub. L. 102–242, title III, §306(a)–(h), Dec. 19, 1991, 105 Stat. 2355, 2357–2359; Pub. L. 102–550, title IX, §955, title XVI, §1605(a)(10), Oct. 28, 1992, 106 Stat. 3895, 4086; Pub. L. 103–325, title III, §334(b), Sept. 23, 1994, 108 Stat. 2233; Pub. L. 104–208, div. A, title II, §2211, Sept. 30, 1996, 110 Stat. 3009–410; Pub. L. 111–203, title VI, §614(a), July 21, 2010, 124 Stat. 1614.)

Editorial Notes

PRIOR PROVISIONS

A prior section 22(h) of act Dec. 23, 1913, ch. 6, as added June 19, 1934, ch. 653, §3, 48 Stat. 1107, was classified to section 596 of this title, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948.

AMENDMENTS

2010—Subsec. (9)(D)(i). Pub. L. 111–203 substituted ''extends credit to a person by—'' for ''extends credit by making'', inserted ''(I) making'' before ''or renewing'', substituted ''which the person'' for ''which a person'' and ''the bank; or'' for ''the bank.'', and added subcl. (II).

1996—Par. (2)(A). Pub. L. 104–208, §2211(a)(1), (2), designated existing provisions as subpar. (A), inserted heading, redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, and adjusted margins.

Par. (2)(B). Pub. L. 104–208, §2211(a)(3), added subpar. (B). Former subpar. (B) redesignated cl. (ii) of subpar. (A).

Par. (2)(C). Pub. L. 104–208, §2211(a)(1), redesignated subpar. (C) as cl. (iii) of subpar. (A).

Par. (8)(B). Pub. L. 104–208, §2211(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''The Board may, by regulation, make exceptions to subparagraph (A), except as that subparagraph makes applicable paragraph (2), for an executive officer or director of a subsidiary of a company that controls the member bank, if that executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank.''

1994—Par. (8). Pub. L. 103–325 designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

1992—Par. (6)(B)(i). Pub. L. 102–550, §1605(a)(10), substituted ''or'' for ''and'' at end.

Par. (9)(D). Pub. L. 102–550, §955(a), designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

Par. (9)(F). Pub. L. 102–550, §955(b), designated portion of existing provisions as cl. (i), realigned margin, substituted ''; and'' for period at end, and added cl. (ii).

1991—Pub. L. 102–242, §306(a), amended section generally, substituting provisions relating to extensions of credit to executive officers, directors, and principal shareholders of member banks for provisions relating to prohibitions respecting loans and extensions of credit to executive officers and directors of banks, political or campaign committees, etc.

Par. (1). Pub. L. 102–242, §306(d)(2), inserted ''(5),'' after ''(4),''.

Par. (2)(C). Pub. L. 102–242, §306(b), added subpar. (C).

Par. (4). Pub. L. 102–242, §306(c), inserted '', director,'' after ''executive officer'' in heading and text.

Par. (5). Pub. L. 102–242, § 306(d)(1), added par. (5).

Par. (7). Pub. L. 102–242, § 306(e), added par. (7).

Par. (8). Pub. L. 102–242, § 306(f), struck out ''bank holding'' before ''company of which the member''.

Par. (9)(E). Pub. L. 102–242, § 306(g), added subpar. (E).

Par. (9)(F). Pub. L. 102–242, § 306(h), struck out last sentence of subpar. (F) which read as follows: ''For purposes of paragraph (4), if a member bank has its main banking office in a city, town, or village with a population of less than 30,000, the preceding sentence shall apply with '18 percent' substituted for '10 percent'.''

1982—Par. (2). Pub. L. 97–320, § 422, substituted ''an amount prescribed in a regulation of the appropriate Federal banking agency'' for ''$25,000''.

Par. (6)(C) to (F). Pub. L. 97–320, § 410(e), redesignated subpars. (D) to (G) as (C) to (F), respectively. Former subpar. (C), relating to definition of term ''extension of credit'', was struck out.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title VI, § 614(b), July 21, 2010, 124 Stat. 1614, provided that: ''The amendments made by this section [amending this section] shall take effect 1 year after the transfer date.''

[For definition of ''transfer date'' as used in section 614(b) of Pub. L. 111–203, set out above, see section 5301 of this title.]

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 1605(a)(10) of Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609 of Pub. L. 102–550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–242, title III, § 306(*l*), Dec. 19, 1991, 105 Stat. 2360, provided that: ''The amendments made by this section [amending this section and sections 1468, 1828, and 1972 of this title] shall become effective upon the earlier of—

''(1) the date on which final regulations under subsection (m)(1) [set out below] become effective [May 18, 1992, see 57 F.R. 22417]; or

''(2) 150 days after the date of enactment of this Act [Dec. 19, 1991].''

EFFECTIVE DATE

Pub. L. 95–630, title XXI, § 2101, Nov. 10, 1978, 92 Stat. 3741, provided that: ''Except as otherwise provided herein, this Act [see Short Title of 1978 Amendment note set out under section 226 of this title] shall take effect upon the expiration of one hundred and twenty days after the date of its enactment [Nov. 10, 1978].''

REGULATIONS

Pub. L. 102–242, title III, § 306(m), Dec. 19, 1991, 105 Stat. 2360, provided that:

''(1) IN GENERAL.—The Board of Governors of the Federal Reserve System shall, not later than 120 days after the date of enactment of this Act [Dec. 19, 1991], promulgate final regulations to implement the amendments made by this section [amending this section and sections 1468, 1828, and 1972 of this title], other than the amendments made by subsections (i) and (k) [amending sections 1468 and 1828 of this title].

''(2) LIMITING EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—The Federal Deposit Insurance Corporation and Director of the Office of Thrift Supervision shall each, not later than 120 days after the date of enactment of this Act, promulgate final regulations prescribing the maximum amount that a nonmember insured bank or insured savings association (as the case may be) may lend under section 22(g)(4) of the Federal Reserve Act [12 U.S.C. 375a(4)], as made applicable to those institutions by subsections (k) and (i), respectively.''

EXISTING TRANSACTIONS NOT AFFECTED BY 1991 AMENDMENTS

Pub. L. 102–242, title III, § 306(n), Dec. 19, 1991, 105 Stat. 2360, provided that: ''The amendments made by this section [amending this section and sections 1468, 1828, and 1972 of this title] do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of those amendments [see Effective Date of 1991 Amendment note above].''

REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS

Pub. L. 102–242, title III, § 306(*o*), Dec. 19, 1991, 105 Stat. 2360, provided that: ''An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.''

§ 376. Rate of interest paid to directors, etc.

No member bank shall pay to any director, officer, attorney, or employee a greater rate of interest on the deposits of such director, officer, attorney, or employee than that paid to other depositors on similar deposits with such member bank.

(Dec. 23, 1913, ch. 6, § 22(e), as added Sept. 26, 1918, ch. 177, § 5, 40 Stat. 971.)

§ 377. Repealed. Pub. L. 106–102, title I, § 101(a), Nov. 12, 1999, 113 Stat. 1341

Section, acts June 16, 1933, ch. 89, § 20, 48 Stat. 188; Aug. 23, 1935, ch. 614, title II, § 203(a), title III, § 302, 49 Stat. 704, 707, prohibited member banks from affiliating with organizations dealing in securities and provided for penalties.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106–102, set out as an Effective Date of 1999 Amendment note under section 24 of this title.

§ 378. Dealers in securities engaging in banking business; individuals or associations engaging in banking business; examinations and reports; penalties

(a) After the expiration of one year after June 16, 1933, it shall be unlawful—

(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor: *Provided*, That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, un-

derwriting, purchasing, and selling investment securities, or issuing securities, to the extent permitted to national banking associations by the provisions of section 24 of this title: *Provided further*, That nothing in this paragraph shall be construed as affecting in any way such right as any bank, banking association, savings bank, trust company, or other banking institution, may otherwise possess to sell, without recourse or agreement to repurchase, obligations evidencing loans on real estate; or

(2) For any person, firm, corporation, association, business trust, or other similar organization to engage, to any extent whatever with others than his or its officers, agents or employees, in the business of receiving deposits subject to check or to repayment upon presentation of a pass book, certificate of deposit, or other evidence of debt, or upon request of the depositor, unless such person, firm, corporation, association, business trust, or other similar organization (A) shall be incorporated under, and authorized to engage in such business by, the laws of the United States or of any State, Territory, or District, and subjected, by the laws of the United States, or of the State, Territory, or District wherein located, to examination and regulation, or (B) shall be permitted by the United States, any State, territory, or district to engage in such business and shall be subjected by the laws of the United States, or such State, territory, or district to examination and regulations or, (C) shall submit to periodic examination by the banking authority of the State, Territory, or District where such business is carried on and shall make and publish periodic reports of its condition, exhibiting in detail its resources and liabilities, such examination and reports to be made and published at the same times and in the same manner and under the same conditions as required by the law of such State, Territory, or District in the case of incorporated banking institutions engaged in such business in the same locality.

(b) Whoever shall willfully violate any of the provisions of this section shall upon conviction be fined not more than $5,000 or imprisoned not more than five years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organization who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both.

(June 16, 1933, ch. 89, §21, 48 Stat. 189; Aug. 23, 1935, ch. 614, title III, §303, 49 Stat. 707; Pub. L. 86–230, §23, Sept. 8, 1959, 73 Stat. 466; Pub. L. 90–448, title VIII, §804(d), Aug. 1, 1968, 82 Stat. 543; Pub. L. 95–369, §12, Sept. 17, 1978, 92 Stat. 624.)

Editorial Notes

AMENDMENTS

1978—Subsec. (a)(2)(B). Pub. L. 95–369 inserted reference to permission by the United States to engage in such business and subjection by the laws of the United States to examination and regulation.

1968—Subsec. (a)(1). Pub. L. 90–448 inserted ", or issuing securities" in first proviso.

1959—Subsec. (a). Pub. L. 86–230 inserted "and subjected, by the laws of the United States, or of the State, Territory, or District wherein located, to examination and regulation," after "District," in cl. (2)(A).

1935—Subsec. (a). Act Aug. 23, 1935, added two provisos to end of par. (1) and amended par. (2) generally.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as a note under section 1716b of this title.

SUBCHAPTER XI—DEPOSITARIES AND FISCAL AGENTS

§ 391. Federal reserve banks as Government depositaries and fiscal agents

The moneys held in the general fund of the Treasury, except the 5 per centum fund for the redemption of outstanding national-bank notes may, upon the direction of the Secretary of the Treasury, be deposited in Federal reserve banks, which banks, when required by the Secretary of the Treasury, shall act as fiscal agents of the United States; and the revenues of the Government or any part thereof may be deposited in such banks, and disbursements may be made by checks drawn against such deposits.

(Dec. 23, 1913, ch. 6, §15 (par.), 38 Stat. 265; Pub. L. 90–269, §2, Mar. 18, 1968, 82 Stat. 50.)

Editorial Notes

CODIFICATION

Section is comprised of first par. of section 15 of act Dec. 23, 1913. Par. 2 of section 15 and par. 3 of section 15, as added Mar. 4, 1923, ch. 252, title IV, §406, 42 Stat. 1480, are classified to sections 392 and 393, respectively, of this title.

AMENDMENTS

1968—Pub. L. 90–269 struck out provision which excepted funds provided in this chapter for the redemption of Federal Reserve notes from deposit in Federal reserve banks.

§ 391a. Reimbursement of Federal Reserve Banks

Beginning in fiscal year 1998 and thereafter, there are appropriated such sums as may be necessary to reimburse Federal Reserve Banks in their capacity as depositaries and fiscal agents for the United States for all services required or directed by the Secretary of the Treasury to be performed by such banks on behalf of the Treasury or other Federal agencies.

(Pub. L. 105–61, title I, Oct. 10, 1997, 111 Stat. 1276.)

§ 392. Depositaries of Government funds as confined to banks in Federal reserve system; member banks as depositaries

No public funds of the postal savings, or any Government funds, shall be deposited in the continental United States in any bank not belonging to the system established by this chapter: *Provided, however*, That nothing in this chapter shall be construed to deny the right of the Secretary of the Treasury to use member banks as depositaries.

(Dec. 23, 1913, ch. 6, §15 (par.), 38 Stat. 265; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)