

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2006 AMENDMENT**

Amendment by Pub. L. 109-390 not applicable to any cases commenced under Title 11, Bankruptcy, or to appointments made under any Federal or State law, before Dec. 12, 2006, see section 7 of Pub. L. 109-390, set out as a note under section 101 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of Title 11.

§ 4405. Preemption

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 4403 and 4404 of this title.

(Pub. L. 102-242, title IV, § 405, Dec. 19, 1991, 105 Stat. 2375.)

§ 4406. Relationship to other payments systems

This chapter shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this chapter.

(Pub. L. 102-242, title IV, § 406, Dec. 19, 1991, 105 Stat. 2375.)

§ 4406a. Treatment of contracts with uninsured national banks, uninsured Federal branches and agencies, certain uninsured State member banks, and Edge Act corporations**(a) In general**

Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act [12 U.S.C. 1821(e)] shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act [12 U.S.C. 611 et seq.], or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 4422¹ of this title, except that for such purpose—

(1) any reference to the “Corporation as receiver” or “the receiver or the Corporation” shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act [12 U.S.C. 611 et seq.] or an uninsured State member bank;

(2) any reference to the “Corporation” (other than in section 11(e)(8)(D) of such Act [12 U.S.C. 1821(e)(8)(D)]), the “Corporation, whether acting as such or as conservator or receiver”, a “receiver”, or a “conservator” shall

refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act [12 U.S.C. 611 et seq.] or an uninsured State member bank; and

(3) any reference to an “insured depository institution” or “depository institution” shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act [12 U.S.C. 611 et seq.], or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 4422¹ of this title.

(b) Liability

The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act [12 U.S.C. 611 et seq.], or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 4422¹ of this title, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act [12 U.S.C. 1821(e)].

(c) Regulatory authority**(1) In general**

The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act [12 U.S.C. 611 et seq.], or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 4422¹ of this title, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

(2) Specific requirement

In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act [12 U.S.C. 1821(e)], the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(d) Definitions

For purposes of this section, the terms “Federal branch”, “Federal agency”, and “foreign bank” have the same meanings as in section 3101 of this title.

(Pub. L. 102-242, title IV, § 407, as added Pub. L. 109-8, title IX, § 906(d)(2), Apr. 20, 2005, 119 Stat. 169.)

¹ See References in Text note below.