

1831o(e)(2)(E)(i) of this title, the appropriate Federal banking agency for a depository institution may enforce, under section 1818 of this title, the terms of—

(1) any condition imposed in writing by the agency on the depository institution or an institution-affiliated party in connection with any action on any application, notice, or other request concerning the depository institution; or

(2) any written agreement entered into between the agency and the depository institution or an institution-affiliated party.

(b) Receiverships and conservatorships

After the appointment of the Corporation as the receiver or conservator for a depository institution, the Corporation may enforce any condition or agreement described in paragraph (1) or (2) of subsection (a) imposed on or entered into with such institution or institution-affiliated party through an action brought in an appropriate United States district court.

(Sept. 21, 1950, ch. 967, §2[50], as added Pub. L. 109-351, title VII, §702(a), Oct. 13, 2006, 120 Stat. 1985.)

§ 1831bb. Capital requirements for certain acquisition, development, or construction loans

(a) In general

The appropriate Federal banking agencies may only require a depository institution to assign a heightened risk weight to a high volatility commercial real estate (HVCRE) exposure (as such term is defined under section 324.2 of title 12, Code of Federal Regulations, as of October 11, 2017, or if a successor regulation is in effect as of May 24, 2018, such term or any successor term contained in such successor regulation) under any risk-based capital requirement if such exposure is an HVCRE ADC loan.

(b) HVCRE ADC loan defined

For purposes of this section and with respect to a depository institution, the term “HVCRE ADC loan”—

(1) means a credit facility secured by land or improved real property that, prior to being reclassified by the depository institution as a non-HVCRE ADC loan pursuant to subsection (d)—

(A) primarily finances, has financed, or refinances the acquisition, development, or construction of real property;

(B) has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and

(C) is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facility;

(2) does not include a credit facility financing—

(A) the acquisition, development, or construction of properties that are—

(i) one- to four-family residential properties;

(ii) real property that would qualify as an investment in community development; or

(iii) agricultural land;

(B) the acquisition or refinancing of existing income-producing real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the institution's applicable loan underwriting criteria for permanent financings;

(C) improvements to existing income-producing improved real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the institution's applicable loan underwriting criteria for permanent financings; or

(D) commercial real property projects in which—

(i) the loan-to-value ratio is less than or equal to the applicable maximum supervisory loan-to-value ratio as determined by the appropriate Federal banking agency;

(ii) the borrower has contributed capital of at least 15 percent of the real property's appraised, “as completed” value to the project in the form of—

(I) cash;

(II) unencumbered readily marketable assets;

(III) paid development expenses out-of-pocket; or

(IV) contributed real property or improvements; and

(iii) the borrower contributed the minimum amount of capital described under clause (ii) before the depository institution advances funds (other than the advance of a nominal sum made in order to secure the depository institution's lien against the real property) under the credit facility, and such minimum amount of capital contributed by the borrower is contractually required to remain in the project until the credit facility has been reclassified by the depository institution as a non-HVCRE ADC loan under subsection (d);

(3) does not include any loan made prior to January 1, 2015; and

(4) does not include a credit facility reclassified as a non-HVCRE ADC loan under subsection (d).

(c) Value of contributed real property

For purposes of this section, the value of any real property contributed by a borrower as a capital contribution shall be the appraised value of the property as determined under standards prescribed pursuant to section 3339 of this title, in connection with the extension of the credit facility or loan to such borrower.

(d) Reclassification as a Non-HVCRE ADC loan

For purposes of this section and with respect to a credit facility and a depository institution, upon—

(1) the substantial completion of the development or construction of the real property being financed by the credit facility; and

(2) cash flow being generated by the real property being sufficient to support the debt service and expenses of the real property,

in accordance with the institution's applicable loan underwriting criteria for permanent financings, the credit facility may be reclassified by the depository institution as a Non-HVCRE ADC loan.

(e) Existing authorities

Nothing in this section shall limit the supervisory, regulatory, or enforcement authority of an appropriate Federal banking agency to further the safe and sound operation of an institution under the supervision of the appropriate Federal banking agency.

(Sept. 21, 1950, ch. 967, §2[51], as added Pub. L. 115-174, title II, §214, May 24, 2018, 132 Stat. 1321.)

§ 1831cc. Data standards

(a) Definition

In this section, the term “financial company” has the meaning given the term in section 201(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381(a)).

(b) Requirement

The Corporation shall, by rule, adopt data standards for all collections of information with respect to information received by the Corporation from any depository institution or financial company under this chapter or under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.).

(c) Consistency

The data standards required under subsection (b) shall incorporate, and ensure compatibility with (to the extent feasible), all applicable data standards established in the rules promulgated under section 5334 of this title, including, to the extent practicable, by having the characteristics described in clauses (i) through (vi) of subsection (c)(1)(B) of such section 5334.

(Sept. 21, 1950, ch. 967, §2[52], as added Pub. L. 117-263, div. E, title LVIII, §5831, Dec. 23, 2022, 136 Stat. 3430.)

Editorial Notes

REFERENCES IN TEXT

The Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in subsec. (b), is Pub. L. 111-203, July 21, 2010, 124 Stat. 1376. Title II of the Act is classified principally to subchapter II (§5381 et seq.) of chapter 53 of this title. For complete classification of the Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Statutory Notes and Related Subsidiaries

RULEMAKING

Pub. L. 117-263, div. E, title LVIII, §5833, Dec. 23, 2022, 136 Stat. 3431, provided that:

“(a) IN GENERAL.—The Federal Deposit Insurance Corporation shall issue rules to carry out the amendments made by this subtitle [subtitle C (§§5831–5834) of title LVIII of div. E of Pub. L. 117-263, enacting this section and section 1831dd of this title], which shall take effect not later than 2 years after the date on which final rules are promulgated under section 124(b)(2) of the Financial Stability Act of 2010 [12 U.S.C. 5334(b)(2)], as added by section 5811(a) of this title.

“(b) SCALING OF REGULATORY REQUIREMENTS; MINIMIZING DISRUPTION.—In issuing the rules required under subsection (a), the Federal Deposit Insurance Corporation—

“(1) may scale data reporting requirements in order to reduce any unjustified burden on smaller regulated entities; and

“(2) shall seek to minimize disruptive changes to the persons affected by those regulations.”

RULE OF CONSTRUCTION REGARDING NO NEW DISCLOSURE REQUIREMENTS

Pub. L. 117-263, div. E, title LVIII, §5834, Dec. 23, 2022, 136 Stat. 3431, provided that: “Nothing in this title [probably means “this subtitle”, subtitle C (§§5831–5834) of title LVIII of div. E of Pub. L. 117-263, enacting this section, section 1831dd of this title, and provisions set out as a note under this section], or the amendments made by this title, shall be construed to require the Federal Deposit Insurance Corporation to collect or make publicly available additional information under the Acts amended by this title (or under any provision of law referenced in an amendment made by this title), beyond information that was collected or made publicly available under any such provision, as of the day before the date of enactment of this Act [Dec. 23, 2022].”

§ 1831dd. Open data publication

All public data assets published by the Corporation under this chapter or under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203; 124 Stat. 1376) shall be—

(1) made available as an open Government data asset (as defined in section 3502 of title 44);

(2) freely available for download;

(3) rendered in a human-readable format; and

(4) accessible via application programming interface where appropriate.

(Sept. 21, 1950, ch. 967, §2[53], as added Pub. L. 117-263, div. E, title LVIII, §5832, Dec. 23, 2022, 136 Stat. 3431.)

Editorial Notes

REFERENCES IN TEXT

The Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in text, is Pub. L. 111-203, July 21, 2010, 124 Stat. 1376, which enacted chapter 53 (§5301 et seq.) of this title and chapters 108 (§8201 et seq.) and 109 (§8301 et seq.) of Title 15, Commerce and Trade, and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION REGARDING NO NEW DISCLOSURE REQUIREMENTS

Enactment of section not to be construed to require certain additional information to be collected or disclosed, see section 5834 of Pub. L. 117-263, set out as a note under section 1831cc of this title.

§ 1832. Withdrawals by negotiable or transferable instruments for transfers to third parties

(a) Authority of depository institution; applicability

(1) Notwithstanding any other provision of law but subject to paragraph (2), a depository insti-