

such additions or employment of such individuals within 30 days after each such waiver.

(d) Additional information

Any notice submitted to the Board by any insured credit union pursuant to subsection (a) shall include—

- (1) the information described in section 1817(j)(6)(A) of this title about the individual; and
- (2) such other information as the Board may prescribe by regulation.

(e) Standard for disapproval

The Board shall issue a notice of disapproval with respect to a notice submitted pursuant to subsection (a) if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the insured credit union or in the best interests of the public to permit the individual to be employed by, or associated with, such insured credit union.

(f) Definition regulations

The Board shall prescribe by regulation a definition for the terms “troubled condition” and “senior executive officer” for purposes of subsection (a).

(June 26, 1934, ch. 750, title II, §212, as added Pub. L. 101-73, title IX, §914(b), Aug. 9, 1989, 103 Stat. 485.)

Editorial Notes

CODIFICATION

Section 914(b) of Pub. L. 101-73, which directed that this section be added to title II of “the Federal Credit Union Insurance Act (12 U.S.C. 1781 et seq.)” was executed by adding this section to the Federal Credit Union Act, which comprises this chapter, as the probable intent of Congress.

§ 1790b. Credit union employee protection remedy

(a) In general

(1) Employees of credit unions

No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

(2) Employees of the Administration

The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

- (A) any credit union or the Administration;

- (B) any director, officer, committee member, or employee of any credit union; or

- (C) any officer or employee of the Administration.

(b) Enforcement

Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the Board.

(c) Remedies

If the district court determines that a violation of subsection (a) has occurred, it may order the credit union or the Administration which committed the violation—

- (1) to reinstate the employee to his former position,
- (2) to pay compensatory damages, or
- (3) take other appropriate actions to remedy any past discrimination.

(d) Limitations

The protections of this section shall not apply to any employee who—

- (1) deliberately causes or participates in the alleged violation of law or regulation, or
- (2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.

(June 26, 1934, ch. 750, title II, §213, as added Pub. L. 101-73, title IX, §932(b), Aug. 9, 1989, 103 Stat. 494; amended Pub. L. 102-242, title II, §251(b)(1), (2), Dec. 19, 1991, 105 Stat. 2332, 2333; Pub. L. 102-550, title XVI, §1604(d), Oct. 28, 1992, 106 Stat. 4084.)

Editorial Notes

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102-550 substituted, in subpar. (A), “union or the” for “union the” and in subpar. (B), “committee member, or employee of any credit union” for “or employee of any depository institution or any such bank”.

1991—Subsec. (a). Pub. L. 102-242, §251(b)(1), substituted “In general” for “Prohibition against discrimination against whistleblowers” in heading and amended text generally. Prior to amendment, text read as follows: “No federally insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or to the Attorney General regarding a possible violation of any law or regulation by the credit union or any of its officers, directors, or employees.”

Subsec. (c). Pub. L. 102-242, §251(b)(2), inserted “or the Administration” after “the credit union”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by 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(a) 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 II, §251(b)(3), Dec. 19, 1991, 105 Stat. 2333, provided that: “Paragraph (2) of section 213(a) of the Federal Credit Union Act [12 U.S.C. 1790b(a)(2)] (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act [Dec. 19, 1991], the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.”

§ 1790c. Reward for information leading to recoveries or civil penalties

The Board may pay rewards in connection with an offense affecting an insured credit union, under the same circumstances and subject to the same limitations that a Federal banking agency may pay rewards under section 1831j of this title in connection with an offense affecting a depository institution insured by the Federal Deposit Insurance Corporation.

(June 26, 1934, ch. 750, title II, §214, as added Pub. L. 101-73, title IX, §933(b), Aug. 9, 1989, 103 Stat. 496.)

§ 1790d. Prompt corrective action

(a) Resolving problems to protect Fund

(1) Purpose

The purpose of this section is to resolve the problems of insured credit unions at the least possible long-term loss to the Fund.

(2) Prompt corrective action required

The Board shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured credit unions.

(b) Regulations required

(1) Insured credit unions

(A) In general

The Board shall, by regulation, prescribe a system of prompt corrective action for insured credit unions that is—

- (i) consistent with this section; and
- (ii) comparable to section 1831o of this title.

(B) Cooperative character of credit unions

The Board shall design the system required under subparagraph (A) to take into account that credit unions are not-for-profit cooperatives that—

- (i) do not issue capital stock;
- (ii) must rely on retained earnings to build net worth; and
- (iii) have boards of directors that consist primarily of volunteers.

(2) New credit unions

(A) In general

In addition to regulations under paragraph (1), the Board shall, by regulation, prescribe a system of prompt corrective action that shall apply to new credit unions in lieu of this section and the regulations prescribed under paragraph (1).

(B) Criteria for alternative system

The Board shall design the system prescribed under subparagraph (A)—

(i) to carry out the purpose of this section;

(ii) to recognize that credit unions (as cooperatives that do not issue capital stock) initially have no net worth, and give new credit unions reasonable time to accumulate net worth;

(iii) to create adequate incentives for new credit unions to become adequately capitalized by the time that they either—

(I) have been in operation for more than 10 years; or

(II) have more than \$10,000,000 in total assets;

(iv) to impose appropriate restrictions and requirements on new credit unions that do not make sufficient progress toward becoming adequately capitalized; and

(v) to prevent evasion of the purpose of this section.

(c) Net worth categories

(1) In general

For purposes of this section the following definitions shall apply:

(A) Well capitalized

An insured credit union is “well capitalized” if—

- (i) it has a net worth ratio of not less than 7 percent; and
- (ii) it meets any applicable risk-based net worth requirement under subsection (d).

(B) Adequately capitalized

An insured credit union is “adequately capitalized” if—

- (i) it has a net worth ratio of not less than 6 percent; and
- (ii) it meets any applicable risk-based net worth requirement under subsection (d).

(C) Undercapitalized

An insured credit union is “undercapitalized” if—

- (i) it has a net worth ratio of less than 6 percent; or
- (ii) it fails to meet any applicable risk-based net worth requirement under subsection (d).

(D) Significantly undercapitalized

An insured credit union is “significantly undercapitalized”—

- (i) if it has a net worth ratio of less than 4 percent; or
- (ii) if—

(I) it has a net worth ratio of less than 5 percent; and

(II) it—

(aa) fails to submit an acceptable net worth restoration plan within the time allowed under subsection (f); or

(bb) materially fails to implement a net worth restoration plan accepted by the Board.

(E) Critically undercapitalized

An insured credit union is “critically undercapitalized” if it has a net worth ratio