

TITLE 12—BANKS AND BANKING

Chap.		Sec.
1.	The Comptroller of the Currency	1
2.	National Banks	21
3.	Federal Reserve System	221
4.	Taxation	531
5.	Crimes and Offenses	581
6.	Foreign Banking	601
6A.	Export-Import Bank of the United States	635
7.	Farm Credit Administration [Repealed or Omitted, See Chapter 23]	636
7A.	Agricultural Marketing	1141
7B.	Regional Agricultural Credit Corporations	1148
8.	Adjustment and Cancellation of Farm Loans	1150
9.	National Agricultural Credit Corporations [Repealed or Omitted]	1151
10.	Local Agricultural-Credit Corporations, Livestock-Loan Companies and Like Organizations; Loans to Individuals To Aid in Formation or To Increase Capital Stock	1401
11.	Federal Home Loan Banks	1421
11A.	Federal Home Loan Mortgage Corporation	1451
12.	Savings Associations	1461
13.	National Housing	1701
14.	Federal Credit Unions	1751
15.	Federal Loan Agency [Omitted]	1801
16.	Federal Deposit Insurance Corporation	1811
17.	Bank Holding Companies	1841
18.	Bank Service Companies	1861
19.	Security Measures for Banks and Savings Associations	1881
20.	Credit Control [Omitted]	1901
21.	Financial Recordkeeping	1951
22.	Tying Arrangements	1971
23.	Farm Credit System	2001
24.	Federal Financing Bank	2281
25.	National Commission on Electronic Fund Transfers	2401
26.	Disposition of Abandoned Money Orders and Traveler's Checks	2501
27.	Real Estate Settlement Procedures	2601
28.	Emergency Mortgage Relief	2701
29.	Home Mortgage Disclosure	2801
30.	Community Reinvestment	2901
31.	National Consumer Cooperative Bank	3001
32.	Foreign Bank Participation in Domestic Markets	3101
33.	Depository Institution Management Interlocks	3201
34.	Federal Financial Institutions Examination Council	3301
34A.	Appraisal Subcommittee of Federal Financial Institutions Examination Council	3331
35.	Right to Financial Privacy	3401
36.	Depository Institutions Deregulation and Financial Regulation Simplification [Omitted or Repealed]	3501
37.	Solar Energy and Energy Conservation Bank [Repealed]	3601
38.	Multifamily Mortgage Foreclosure	3701
38A.	Single Family Mortgage Foreclosure	3751
39.	Alternative Mortgage Transactions	3801

40.	International Lending Supervision	3901
41.	Expedited Funds Availability	4001
42.	Low-Income Housing Preservation and Resident Homeownership	4101
43.	Actions Against Persons Committing Bank Fraud Crimes	4201
44.	Truth in Savings	4301
45.	Payment System Risk Reduction	4401
46.	Government Sponsored Enterprises	4501
47.	Community Development Banking	4701
48.	Financial Institutions Regulatory Improvement	4801
49.	Homeowners Protection	4901
50.	Check Truncation	5001
51.	Secure and Fair Enforcement for Mortgage Licensing	5101
52.	Emergency Economic Stabilization	5201
53.	Wall Street Reform and Consumer Protection	5301
54.	State Small Business Credit Initiative	5701
55.	Adjustable Interest Rate (LIBOR)	5801

CHAPTER 1—THE COMPTROLLER OF THE CURRENCY

Sec.	
1.	Office of the Comptroller of the Currency.
2.	Comptroller of the Currency; appointment; term.
3.	Oath of Comptroller.
4.	Deputy Comptrollers.
4a.	Delegation of authority by Comptroller.
4b.	Deputy Comptroller for the supervision and examination of Federal savings associations.
5, 6.	Repealed.
7.	Chief of examining division.
8.	Clerks.
9.	Additional examiners, clerks, and other employees.
9a.	Repealed.
10.	Salaries of Deputy Comptrollers, examiners, and other employees as part of bank examination expenses.
11.	Interest in national banks.
12.	Seal of Comptroller.
13.	Rooms for Currency Bureau.
14.	Report of Comptroller.
14a.	Data standards; open data publication.
15.	Repealed.
16.	Funding of Office.

§1. Office of the Comptroller of the Currency

(a) Office of the Comptroller of the Currency established

There is established in the Department of the Treasury a bureau to be known as the "Office of the Comptroller of the Currency" which is charged with assuring the safety and soundness of, and compliance with laws and regulations, fair access to financial services, and fair treatment of customers by, the institutions and other persons subject to its jurisdiction.

(b) Comptroller of the Currency

(1) In general

The chief officer of the Office of the Comptroller of the Currency shall be known as the Comptroller of the Currency. The Comptroller of the Currency shall perform the duties of the

Comptroller of the Currency under the general direction of the Secretary of the Treasury. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency, and may not intervene in any matter or proceeding before the Comptroller of the Currency (including agency enforcement actions), unless otherwise specifically provided by law.

(2) Additional authority

The Comptroller of the Currency shall have the same authority with respect to functions transferred to the Comptroller of the Currency under the Enhancing Financial Institution Safety and Soundness Act of 2010 as was vested in the Director of the Office of Thrift Supervision on the transfer date, as defined in section 311 of that Act [12 U.S.C. 5411].

(R.S. §324; Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 89–427, §1, May 20, 1966, 80 Stat. 161; Pub. L. 103–325, title III, §331(b)(2), Sept. 23, 1994, 108 Stat. 2232; Pub. L. 111–203, title III, §314(a), July 21, 2010, 124 Stat. 1523.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Enhancing Financial Institution Safety and Soundness Act of 2010, referred to in subsec. (b)(2), is Pub. L. 111–203, title III, July 21, 2010, 124 Stat. 1520. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

R.S. §324 derived from act June 3, 1864, ch. 106, §1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

Section is comprised of R.S. §324, as amended by the eighth paragraph of act Dec. 23, 1913, §10.

AMENDMENTS

2010—Pub. L. 111–203 amended section generally. Prior to amendment, section read as follows: "There shall be in the Department of the Treasury a bureau charged with the execution of all laws passed by Congress relating to the issue and regulation of national currency secured by United States bonds and, under the general supervision of the Board of Governors of the Federal Reserve System, of all Federal Reserve notes, except for the cancellation and destruction, and accounting with respect to such cancellation and destruction, of Federal Reserve notes unfit for circulation, the chief officer of which bureau shall be called the Comptroller of the Currency and shall perform his duties under the general directions of the Secretary of the Treasury. The Comptroller of the Currency shall have the same authority over matters within the jurisdiction of the Comptroller as the Director of the Office of Thrift Supervision has over matters within the Director's jurisdiction under section 1462a(b)(3) of this title. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency."

1994—Pub. L. 103–325 inserted at end "The Comptroller of the Currency shall have the same authority over matters within the jurisdiction of the Comptroller as the Director of the Office of Thrift Supervision has over matters within the Director's jurisdiction under section 1462a(b)(3) of this title. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency."

1966—Pub. L. 89–427 inserted exception relating to cancellation and destruction, and accounting with respect to the cancellation and destruction, of Federal Reserve notes unfit for circulation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title III, §314(d), July 21, 2010, 124 Stat. 1524, provided that: "This section [enacting section 4b of this title and amending this section and section 11 of this title], and the amendments made by this section, shall take effect on the transfer date."

[For definition of "transfer date" as used in section 314(d) of Pub. L. 111–203, set out above, see section 5301 of this title.]

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, were not included in transfer of functions of officers, agencies, and employees of Department of the Treasury to Secretary of the Treasury, made by Reorg. Plan No. 26 of 1950, §1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280. See section 321(c)(2) of Title 31, Money and Finance.

§2. Comptroller of the Currency; appointment; term

The Comptroller of the Currency shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office for a term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate.

(R.S. §325; Aug. 23, 1935, ch. 614, title II, §209, 49 Stat. 707.)

EDITORIAL NOTES

CODIFICATION

R.S. §325 derived from act June 3, 1864, ch. 106, §1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

Provisions of this section which prescribed the annual basic compensation of the Comptroller of the Currency were omitted to conform to the provisions of the Executive Schedule. See section 5314 of Title 5, Government Organization and Employees.

AMENDMENTS

1935—Act Aug. 23, 1935, struck out "on the recommendation of the Secretary of the Treasury" after "President", where first appearing, and changed the salary from "\$5,000 a year" to "\$15,000 a year".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPEALS

Act Oct. 15, 1949, ch. 695, §4, 63 Stat. 880, formerly cited as a credit to this section, was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 655.

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, were not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§3. Oath of Comptroller

The Comptroller of the Currency shall, within fifteen days from the time of notice of his appointment, take and subscribe the oath of office.

(R.S. §326; Pub. L. 86-251, §1(d), Sept. 9, 1959, 73 Stat. 488; Pub. L. 92-310, title II, §223(a), June 6, 1972, 86 Stat. 206.)

EDITORIAL NOTES

CODIFICATION

R.S. §326 derived from act June 3, 1864, ch. 106, §1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1972—Pub. L. 92–310 struck out provisions which required the Comptroller to give a bond in the sum of \$250,000.

1959—Pub. L. 86–251 increased the surety bond requirement from \$100,000 to \$250,000.

§4. Deputy Comptrollers

The Secretary of the Treasury shall appoint no more than four Deputy Comptrollers of the Currency, one of whom shall be designated First Deputy Comptroller of the Currency, and shall fix their salaries. Each Deputy Comptroller shall take the oath of office and shall perform such duties as the Comptroller shall direct. During a vacancy in the office or during the absence or disability of the Comptroller, each Deputy Comptroller shall possess the power and perform the duties attached by law to the office of the Comptroller under such order of succession following the First Deputy Comptroller as the Comptroller shall direct.

(R.S. §327; Mar. 4, 1923, ch. 252, §209(b), 42 Stat. 1467; Pub. L. 86–251, §1(a), Sept. 9, 1959, 73 Stat. 487; Pub. L. 92–310, title II, §223(b), June 6, 1972, 86 Stat. 206.)

EDITORIAL NOTES

CODIFICATION

R.S. §327 derived from act June 3, 1864, ch. 106, §1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

R.S. §327, contained after the word "Secretary" the following "who shall be entitled to a salary of two thousand five hundred dollars a year, and" which was omitted from this section on authority of act Mar. 4, 1923, §209(b), fourth sentence, which was classified to section 9a of this title and regulated the salaries of deputy comptrollers.

AMENDMENTS

1972—Pub. L. 92–310 struck out provisions which required each Deputy Comptroller to give a bond in the sum of \$100,000.

1959—Pub. L. 86–251 provided for the appointment of four Deputy Comptrollers instead of one, the designation of one as the First Deputy, the fixing of salaries, increase in surety bond requirement from \$50,000 to \$100,000 and order of succession.

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.

§4a. Delegation of authority by Comptroller

The Comptroller of the Currency may delegate to any duly authorized employee, representative, or agent any power vested in the office by law.

(R.S. §327A, as added Pub. L. 96–221, title VII, §707(a), Mar. 31, 1980, 94 Stat. 188.)

§4b. Deputy Comptroller for the supervision and examination of Federal savings associations

The Comptroller of the Currency shall designate a Deputy Comptroller, who shall be responsible for the supervision and examination of Federal savings associations.

(R.S. §327B, as added Pub. L. 111–203, title III, §314(b), July 21, 2010, 124 Stat. 1524.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the transfer date, see section 314(d) of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1 of this title.

§§5, 6. Repealed. Pub. L. 86–251, §1(b), (c)(1), Sept. 9, 1959, 73 Stat. 487, 488

Section 5, act Mar. 4, 1909, ch. 297, §1, 35 Stat. 867, related to appointment, succession in office and penal bond of assistant deputy comptroller. See section 4 of this title.

Section 6, act Mar. 4, 1923, ch. 252, title II, §209(b) (pt.), 42 Stat. 1467, related to appointment, oath of office, penal bond, assigned duties and administration of national agricultural credit corporation provisions of third Deputy Comptroller. See section 4 of this title.

§7. Chief of examining division

The Comptroller of the Currency may designate a national bank examiner to act as chief of the examining division in his office.

(Jan. 3, 1923, ch. 22, 42 Stat. 1096.)

EDITORIAL NOTES

CODIFICATION

Section is based on Treasury Department Appropriation Act, 1924, act Jan. 3, 1923.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions were contained in act Feb. 17, 1922, ch. 55, 42 Stat. 375, and in earlier appropriation acts.

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.

§8. Clerks

The Comptroller of the Currency shall employ, from time to time, the necessary clerks, to be appointed and classified by the Secretary of the Treasury, to discharge such duties as the comptroller shall direct.

(R.S. §328.)

EDITORIAL NOTES

CODIFICATION

R.S. §328 derived from act June 3, 1864, ch. 106, §1, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

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.

§9. Additional examiners, clerks, and other employees

The Comptroller of the Currency is authorized to employ such additional examiners, clerks, and other employees as he deems necessary to carry out the provisions of sections 4, 6, 9, 10, 1151 to 1318, and 1322 of this title and to assign to duty in the office of his bureau in Washington such examiners and assistant examiners as he shall deem necessary to assist in the performance of the work of that bureau.

(Mar. 4, 1923, ch. 252, title II, §209(b), 42 Stat. 1467.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 6, referred to in text, was repealed by Pub. L. 86–251, §1(c)(1), Sept. 9, 1959, 73 Stat. 488.

Sections 1151, 1161 to 1163, 1171, 1172, 1181, 1182, 1191, 1201, 1202, 1211 to 1215, 1221 to 1223, 1231, 1232, 1241 to 1244, 1246, 1247, 1249, 1251, 1261, 1271, 1281 to 1283, 1291 to 1293, 1301 to 1303, and 1322 of this title, included within the reference to sections 1151 to 1318, and 1322 of this title, were repealed by Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466.

Section 1151a, included within the reference to sections 1151 to 1318 of this title, was repealed by Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624.

Sections 1245, 1248, and 1311 to 1318, included within the reference to sections 1151 to 1318 of this title, were repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948.

The bureau referred to in text is known as the Office of the Comptroller of the Currency.

CODIFICATION

Section is comprised of subsec. (b), third sentence, of section 209 of act Mar. 4, 1923. For classification to this title of other provisions of section 209, see Tables.

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.

§9a. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 645

Section, act Mar. 4, 1923, ch. 252, title II, §209(b), 42 Stat. 1467, authorized Comptroller to fix in advance pay of deputy comptrollers, examiners, clerks, and certain other employees.

§10. Salaries of Deputy Comptrollers, examiners, and other employees as part of bank examination expenses

The salaries of the Deputy Comptrollers and of all national bank examiners and assistant examiners assigned to duty in the office of the bureau in Washington in connection with the supervision of national banks shall be considered part of the expenses of the examinations provided for by subchapter XV of chapter 3 of this title.

(Mar. 4, 1923, ch. 252, title II, §209(b), 42 Stat. 1467; Pub. L. 86–251, §1(c)(2), Sept. 9, 1959, 73 Stat. 488.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter XV [§481 et seq.] of chapter 3 of this title, referred to in text, was in the original a reference to section 5240 of the Revised Statutes.

CODIFICATION

Section is comprised of subsec. (b), fifth sentence, of section 209 of act Mar. 4, 1923. For classification to this title of other provisions of section 209, see Tables.

AMENDMENTS

1959—Pub. L. 86–251 included all Deputy Comptrollers instead of only two deputy comptrollers and struck out provisions deeming the salaries of deputy comptroller, examiners, assistant examiners, clerks and other employees as expenses of administration of national agricultural credit corporation provisions and considering the salary of the additional deputy comptroller as partly an expense of administration in proportion to time spent in such administration.

§11. Interest in national banks

It shall not be lawful for the Comptroller or the Deputy Comptroller of the Currency, either directly or indirectly, to hold an interest in any national bank or any Federal savings association. (R.S. §329; Pub. L. 106–569, title XII, §1233(b), Dec. 27, 2000, 114 Stat. 3037; Pub. L. 111–203, title III, §314(c), July 21, 2010, 124 Stat. 1524.)

EDITORIAL NOTES

CODIFICATION

R.S. §329 derived from act June 3, 1864, ch. 106, §1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2010—Pub. L. 111–203 inserted "or any Federal savings association" before the period.

2000—Pub. L. 106–569 substituted "to hold an interest in any national bank" for "to be interested in any association issuing national currency under the laws of the United States".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 314(d) of Pub. L. 111–203, set out as a note under section 1 of this title.

§12. Seal of Comptroller

The seal devised by the Comptroller of the Currency for his office, and approved by the Secretary of the Treasury, shall continue to be the seal of office of the comptroller, and may be renewed when necessary. A description of the seal, with an impression thereof, and a certificate of approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State.

(R.S. §330; Feb. 18, 1875, ch. 80, §1, 18 Stat. 317.)

EDITORIAL NOTES

CODIFICATION

R.S. §330 derived from act June 3, 1864, ch. 106, §2, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

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.

§13. Rooms for Currency Bureau

There shall be assigned, from time to time, to the Comptroller of the Currency, by the Secretary of the Treasury, suitable rooms in the Treasury Building for conducting the business of the Currency Bureau, containing safe and secure fireproof vaults, in which the Comptroller shall deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department; and the Comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the business of his office.

(R.S. §331.)

EDITORIAL NOTES

REFERENCES IN TEXT

The bureau referred to in text is known as the Office of the Comptroller of the Currency.

CODIFICATION

R.S. §331 derived from act June 3, 1864, ch. 106, §3, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

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.

§14. Report of Comptroller

The Comptroller of the Currency shall make an annual report to Congress. The report required under this section shall include the report required under section 57a(f)(7) [1](#) of title 15.

(R.S. §333; Feb. 18, 1875, ch. 80, §1, 18 Stat. 317; Aug. 7, 1946, ch. 770, §1(39), 60 Stat. 869; Pub. L. 106–569, title XI, §1103(c), Dec. 27, 2000, 114 Stat. 3031.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 57a(f)(7) of title 15, referred to in text, was repealed by Pub. L. 111–203, title X, §1092(3), July 21, 2010, 124 Stat. 2095.

CODIFICATION

R.S. §333 derived from acts June 3, 1864, ch. 106, §61, 13 Stat. 117, and Feb. 19, 1873, ch. 166, 17 Stat. 466. Act June 3, 1864, was the National Bank Act. See section 38 of this title.

AMENDMENTS

2000—Pub. L. 106–569 inserted at end "The report required under this section shall include the report required under section 57a(f)(7) of title 15."

1946—Act Aug. 7, 1946, repealed in the opening clause, the requirement that the report to Congress shall be submitted at the commencement of its session, and repealed all provisions prescribing contents of the exhibits in the report.

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.

¹ [*See References in Text note below.*](#)

§14a. Data standards; open data publication

(a) Data standards

(1) Requirement

The Comptroller of the Currency shall, by rule, adopt data standards for all collections of information that are regularly filed with or submitted to the Comptroller of the Currency by any entity with respect to which the Office of the Comptroller of the Currency is the appropriate Federal banking agency (as defined in section 1813 of this title).

(2) Consistency

The data standards required under paragraph (1) 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.

(b) Open data publication

All public data assets published by the Comptroller of the Currency under title LXII or 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.

(R.S. §333, as added Pub. L. 117–263, div. E, title LVIII, §5841, Dec. 23, 2022, 136 Stat. 3431.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title LXII, referred to in subsec. (b), probably means title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to sections 16, 21, 22 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

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, 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.

CODIFICATION

Another R.S. §333 is classified to section 14 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RULEMAKING

Pub. L. 117–263, div. E, title LVIII, §5842, Dec. 23, 2022, 136 Stat. 3432, provided that:

"(a) **IN GENERAL.**—The Comptroller of the Currency shall issue rules to carry out the amendments made by section 5841 [enacting this section], 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 Comptroller of the Currency—

"(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, §5843, Dec. 23, 2022, 136 Stat. 3432, provided that: "Nothing in this subtitle [subtitle D (§§5841–5843) of title LVIII of div. E of Pub. L. 117–263, enacting this section and provisions set out as a note under this section], or the amendments made by this subtitle, shall be construed to require the Comptroller of the Currency to collect or make publicly available additional information under the Revised Statutes of the United States (or under any other provision of law referenced in an amendment made by this subtitle), beyond information that was collected or made publicly available under any such provision of law, as of the day before the date of enactment of this Act [Dec. 23, 2022]."

§15. Repealed. Aug. 7, 1946, ch. 770, §1(40, 50), 60 Stat. 869, 870

Section, act Apr. 28, 1902, ch. 594, §1, 32 Stat. 138, required inclusion of expenses of liquidation of national banks in annual report of Comptroller of the Currency.

§16. Funding of Office

The Comptroller of the Currency may collect an assessment, fee, or other charge from any entity described in section 1813(q)(1) of this title, as the Comptroller determines is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency. In establishing the amount of an assessment, fee, or charge collected from an entity under this section, the Comptroller of the Currency may take into account the nature and scope of the activities of the entity, the amount and type of assets that the entity holds, the financial and managerial condition of the entity, and any other factor, as the Comptroller of the Currency determines is appropriate. Funds derived from any assessment, fee, or charge collected or payment made pursuant to this section may be deposited by the Comptroller of the Currency in accordance with the provisions of section 192 of this title. Such funds shall not be construed to be Government funds or appropriated monies, and shall not be subject to apportionment for purposes of chapter 15 of title 31 or any other provision of law. The authority of the Comptroller of the Currency under this section shall be in addition to the authority under subchapter XV of chapter 3.

The Comptroller of the Currency shall have sole authority to determine the manner in which the obligations of the Office of the Comptroller of the Currency shall be incurred and its disbursements and expenses allowed and paid, in accordance with this section, except as provided in chapter 71 of title 5 (with respect to compensation).

(R.S. §5240A, as added Pub. L. 111–203, title III, §318(b), July 21, 2010, 124 Stat. 1526.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter XV of chapter 3, referred to in first par., was in the original a reference to section 5240 of the Revised Statutes.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 111–203, title III, §318(e), July 21, 2010, 124 Stat. 1527, provided that: "This section [enacting this section and amending sections 248, 481, 482, and 1820 of this title], and the amendments made by this section, shall take effect on the transfer date."

[For definition of "transfer date" as used in section 318(e) of Pub. L. 111–203, set out above, see section 5301 of this title.]

CHAPTER 2—NATIONAL BANKS

SUBCHAPTER I—ORGANIZATION AND GENERAL PROVISIONS

- | | |
|------------|---|
| Sec. | |
| 21. | Formation of national banking associations; incorporators; articles of association. |
| 21a. | Amendment of articles of association. |
| 22. | Organization certificate. |
| 23. | Acknowledgment and filing of certificate. |
| 24. | Corporate powers of associations. |
| 24a. | Financial subsidiaries of national banks. |
| 25. | Omitted. |
| 25a. | Participation by national banks in lotteries and related activities. |
| 25b. | State law preemption standards for national banks and subsidiaries clarified. |
| 26. | Comptroller to determine if association can commence business. |
| 27. | Certificate of authority to commence banking. |
| 28. | Repealed. |
| 29. | Power to hold real property. |
| 30. | Change of name or location. |
| 31. | Rights and liabilities as affected by change of name. |
| 32. | Liabilities and suits as affected by change of name or location. |
| 33 to 34c. | Transferred. |
| 35. | Organization of State banks as national banking associations. |
| 36. | Branch banks. |
| 37. | Associations governed by chapter. |
| 38. | The National Bank Act. |
| 39. | Reservation of rights of associations organized under Act of 1863. |
| 40. | Virgin Islands; extension of National Bank Act. |
| 41. | Guam; extension of National Bank Act. |
| 42. | Territorial application. |
| 43. | Interpretations concerning preemption of certain State laws. |

SUBCHAPTER II—CAPITAL, STOCK, AND STOCKHOLDERS

- | | |
|--------|---|
| 51. | Repealed. |
| 51a. | Preferred stock; issuance authorized. |
| 51b. | Dividends, voting, and retirement of preferred stock; individual liability. |
| 51b–1. | Consideration of preferred stock in determining impairment of capital; dividends; |

- retirement.
- 51c. "Common stock", "capital", and "capital stock" defined.
- 51d to 51f. Repealed.
- 52. Par value and incidents of stock; transfer of shares.
- 53. When capital stock paid in.
- 54. Repealed.
- 55. Enforcing payment of deficiency in capital stock; assessments; liquidation; receivership.
- 56. Prohibition on withdrawal of capital; unearned dividends.
- 57. Increase of capital by provision in articles of association.
- 58. Repealed.
- 59. Reduction of capital.
- 60. National bank dividends.
- 61. Shareholders' voting rights; cumulative and distributive voting; preferred stock; trust shares; proxies, liability restrictions; percentage requirement exclusion of trust shares.
- 62. List of shareholders.
- 63, 64. Repealed.
- 64a. Individual liability of shareholders; limitation on liability.
- 65. Repealed.
- 66. Personal liability of representatives of stockholders.
- 67. Individual liability of shareholders; compromises; authority of receiver.

SUBCHAPTER III—DIRECTORS

- 71. Election.
- 71a. Number of directors; penalties.
- 72. Qualifications.
- 73. Oath.
- 74. Vacancies.
- 75. Legal holiday, annual meeting on; proceedings where no election held on proper day.
- 76. President of bank as member of board; chairman of board.
- 77, 78. Repealed.

SUBCHAPTER IV—REGULATION OF THE BANKING BUSINESS; POWERS AND DUTIES OF NATIONAL BANKS

- 81. Place of business.
- 82. Repealed.
- 83. Loans by bank on its own stock.
- 84. Lending limits.
- 85. Rate of interest on loans, discounts and purchases.
- 86. Usurious interest; penalty for taking; limitations.
- 86a to 89. Omitted or Repealed.
- 90. Depositories of public moneys and financial agents of Government.
- 91. Transfers by bank and other acts in contemplation of insolvency.
- 92. Acting as insurance agent or broker.
- 92a. Trust powers.
- 93. Violation of provisions of chapter.
- 93a. Authority to prescribe rules and regulations.
- 94. Venue of suits.
- 94a. Repealed.
- 95. Emergency limitations and restrictions on business of members of Federal reserve system; designation of legal holiday for national banking associations; exceptions; "State" defined.
- 95a, 95b. Omitted.

SUBCHAPTER V—OBTAINING AND ISSUING CIRCULATING NOTES

101 to 110. Repealed.

SUBCHAPTER VI—REDEMPTION AND REPLACEMENT OF CIRCULATING NOTES

121. Repealed.

121a. Redemption of notes unidentifiable as to bank of issue.

122 to 127. Repealed.

SUBCHAPTER VII—PROCEEDINGS ON FAILURE OF BANK TO REDEEM CIRCULATING NOTES

131 to 138. Repealed.

SUBCHAPTER VIII—RESERVE CITIES; LAWFUL RESERVES

141. Omitted.

142. Banks in reserve cities; reserves.

143. Banks in Alaska and insular possessions; lawful money reserves.

144. Certain balances counted toward reserves in dependencies and insular possessions.

145, 146. Repealed.

SUBCHAPTER IX—FORMATION OF ASSOCIATIONS TO ISSUE GOLD NOTES

151 to 153. Repealed.

SUBCHAPTER X—BANK EXAMINATIONS; REPORTS

161. Reports to Comptroller of the Currency.

162, 163. Repealed.

164. Penalty for failure to make reports.

165. Omitted.

SUBCHAPTER XI—MISCELLANEOUS PROVISIONS REGARDING UNITED STATES BONDS IN RELATION TO NATIONAL BANKS

168 to 177. Repealed.

177a. Funds available for cost of transporting and redeeming national and Federal Reserve bank notes.

178. Repealed.

SUBCHAPTER XII—VOLUNTARY DISSOLUTION

181. Voluntary dissolution; appointment and removal of liquidating agent or committee; examination.

182. Notice of intent to dissolve.

183 to 186. Repealed.

SUBCHAPTER XIII—RECEIVERSHIP

191. Appointment of receiver for a national bank.

192. Default in payment of circulating notes.

193. Notice to present claims.

194. Dividends on adjusted claims; distribution of assets.

195. Repealed.

196. Expenses.

197. Shareholders' meeting; continuance of receivership; appointment of agent; winding up business; distribution of assets.

197a. Resumption of business by closed bank on consent of depositors.

198. Purchase by receiver of property of bank; request to Comptroller.

199. Approval of request.

200. Payment.

SUBCHAPTER XIV—BANK CONSERVATION ACT

201. Short title.

202. Definitions.

203. Appointment of conservator.

204. Examinations.

- 205. Termination of conservatorship.
- 206. Conservator; powers and duties.
- 207, 208. Repealed.
- 209. Liability protection.
- 210. Governmental powers unimpaired.
- 211. Rules and regulations.
- 212. Right to amend; separability.
- 213. Transferred.

SUBCHAPTER XV—CONVERSION OF NATIONAL BANKS INTO STATE BANKS

- 214. Definitions.
- 214a. Procedure for conversion, merger, or consolidation; vote of stockholders.
- 214b. Continuation of business and corporate entity.
- 214c. Conversions in contravention of State law.
- 214d. Prohibition on conversion.

SUBCHAPTER XVI—CONSOLIDATION AND MERGER

- 215. Consolidation of banks within same State.
- 215a. Merger of national banks or State banks into national banks.
- 215a-1. Interstate consolidations and mergers.
- 215a-2. Expedited procedures for certain reorganizations.
- 215a-3. Mergers and consolidations with subsidiaries and nonbank affiliates.
- 215b. Definitions.
- 215c. Mergers, consolidations, and other acquisitions authorized.

SUBCHAPTER XVII—DISPOSITION OF UNCLAIMED PROPERTY RECOVERED FROM CLOSED NATIONAL BANKS

- 216. Purpose.
- 216a. Definitions.
- 216b. Disposition of unclaimed property.
- 216c. Rules and regulations.
- 216d. Severability.

SUBCHAPTER I—ORGANIZATION AND GENERAL PROVISIONS

§21. Formation of national banking associations; incorporators; articles of association

Associations for carrying on the business of banking under title 62 of the Revised Statutes may be formed by any number of natural persons, not less in any case than five. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons uniting to form the association, and a copy of them shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

(R.S. §5133.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 22 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5133 derived from act June 3, 1864, ch. 106, §5, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–251, §1, Dec. 18, 2014, 128 Stat. 2888, provided that: "This Act [enacting section 1308 of Title 18, Crimes and Criminal Procedure, amending sections 25a, 339, 1463, and 1829a of this title and sections 1952, 1953, and 1955 of Title 18, and enacting provisions set out as a note under section 25a of this title] may be cited as the 'American Savings Promotion Act'."

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.

§21a. Amendment of articles of association

Except as otherwise specifically provided by law, or by the articles of association of the particular national banking association, the articles of association of a national banking association may be amended with respect to any lawful matter, and any action requiring the approval of the stockholders of such association may be had by the approving vote of the holders of a majority of the voting shares of the stock of the association obtained at a meeting of the stockholders called and held pursuant to notice given by mail at least ten days prior to the meeting or pursuant to a waiver of such notice given by all stockholders entitled to receive notice of such meeting. A certified copy of every amendment to the articles of association adopted by the shareholders of a national banking association shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

(Pub. L. 86–230, §13, Sept. 8, 1959, 73 Stat. 458.)

§22. Organization certificate

The persons uniting to form such an association shall, under their hands, make an organization certificate, which shall specifically state:

First. The name assumed by such association; which name shall include the word "national".

Second. The place where its operations of discount and deposit are to be carried on, designating the State, Territory, or District, and the particular county and city, town, or village.

Third. The amount of capital stock and the number of shares into which the same is to be divided.

Fourth. The names and places of residence of the shareholders and the number of shares held by each of them.

Fifth. The fact that the certificate is made to enable such persons to avail themselves of the advantages of title 62 of the Revised Statutes.

(R.S. §5134; Pub. L. 86–230, §25, Sept. 8, 1959, 73 Stat. 466; Pub. L. 97–320, title IV, §405(b), Oct. 15, 1982, 96 Stat. 1512.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in par. Fifth, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16,

21, 23 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5134 derived from act June 3, 1864, ch. 106, §6, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1982—Par. First. Pub. L. 97–320 struck out "and be subject to the approval of the Comptroller of the Currency" after "national".

1959—Par. First. Pub. L. 86–230 substituted "which named shall include the word 'national' and be" for "which name shall be".

§23. Acknowledgment and filing of certificate

The organization certificate shall be acknowledged before a judge of some court of record, or notary public; and shall be, together with the acknowledgment thereof, authenticated by the seal of such court, or notary, transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office.

(R.S. §5135.)

EDITORIAL NOTES

CODIFICATION

R.S. §5135 derived from act June 3, 1864, ch. 106, §6, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

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.

§24. Corporate powers of associations

Upon duly making and filing articles of association and an organization certificate a national banking association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

Second. To have succession from February 25, 1927, or from the date of its organization if organized after February 25, 1927, until such time as it be dissolved by the act of its shareholders owning two-thirds of its stock, or until its franchise becomes forfeited by reason of violation of law, or until terminated by either a general or a special Act of Congress or until its affairs be placed in the hands of a receiver and finally wound up by him.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law and equity, as fully as natural persons.

Fifth. To elect or appoint directors, and by its board of directors to appoint a president, vice president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places.

Sixth. To prescribe, by its board of directors, bylaws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of title 62 of the Revised Statutes. The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock; *Provided*, That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe. In no event shall the total amount of the investment securities of any one obligor or maker, held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, except that this limitation shall not require any association to dispose of any securities lawfully held by it on August 23, 1935. As used in this section the term "investment securities" shall mean marketable obligations, evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes and/or debentures commonly known as investment securities under such further definition of the term "investment securities" as may by regulation be prescribed by the Comptroller of the Currency. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation. The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for its own account, investment securities shall not apply to obligations of the United States, or general obligations of any State or of any political subdivision thereof, or obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969, or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the thirteen banks for cooperatives or any of them or the Federal Home Loan Banks, or obligations which are insured by the Secretary of Housing and Urban Development under title XI of the National Housing Act [12 U.S.C. 1749aaa et seq.] or obligations which are insured by the Secretary of Housing and Urban Development (hereinafter in this sentence referred to as the "Secretary") pursuant to section 207 of the National Housing Act [12 U.S.C. 1713], if the debentures to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States, or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association, or the Government National Mortgage Association, or mortgages, obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455], or obligations of the Federal Financing Bank or obligations of the Environmental Financing Authority, or obligations or other instruments or securities of the Student Loan Marketing Association, or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949 [42 U.S.C. 1460(h)]) as are secured by an agreement between the local public agency and the Secretary in which the local public agency agrees to borrow from said Secretary, and said Secretary agrees to lend to said local public agency, monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]) as are secured (1) by an agreement between the public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the

public housing agency, prior to the maturity of such obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary if such contract shall contain the covenant by the Secretary which is authorized by subsection (g) of section 6 of the United States Housing Act of 1937, as amended [42 U.S.C. 1437d(g)], and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 6(g) [42 U.S.C. 1437d(g)] shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations, or (3) by a pledge of both annual contributions under an annual contributions contract containing the covenant by the Secretary which is authorized by section 6(g) of the United States Housing Act of 1937 [42 U.S.C. 1437d(g)], and a loan under an agreement between the local public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the public housing agency, prior to the maturity of the obligations involved, moneys in an amount which (together with any other moneys irrevocably committed under the annual contributions contract to the payment of principal and interest on such obligations) will suffice to provide for the payment when due of all installments of principal and interest on such obligations, which moneys under the terms of the agreement are required to be used for the purpose of paying the principal and interest on such obligations at their maturity: *Provided*, That in carrying on the business commonly known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 per centum of the capital stock of the association actually paid in and unimpaired and 15 per centum of its unimpaired surplus. The limitations and restrictions herein contained as to dealing in and underwriting investment securities shall not apply to obligations issued by the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the Inter-American Development Bank ¹ Bank for Economic Cooperation and Development in the Middle East and North Africa,,² the North American Development Bank, the Asian Development Bank, the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation,,² or obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes, which are at the time eligible for purchase by a national bank for its own account, nor to bonds, notes and other obligations issued by the Tennessee Valley Authority or by the United States Postal Service: *Provided*, That no association shall hold obligations issued by any of said organizations as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.], and may make investments in a partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of that Act [42 U.S.C. 3937(a) or 3937(c)]. Notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock issued by any State housing corporation incorporated in the State in which the association is located and may make investments in loans and commitments for loans to any such corporation: *Provided*, That in no event shall the total amount of such stock held for its own account and such investments in loans and commitments made by the association exceed at any time 5 per centum of its capital stock actually paid in and unimpaired plus 5 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including the breeding, raising, fattening, or marketing of

livestock. However, unless the association owns at least 80 per centum of the stock of such agricultural credit corporation the amount invested by the association at any one time in the stock of such corporation shall not exceed 20 per centum of the unimpaired capital and surplus of the association: *Provided further*, That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions or depository institution holding companies (as defined in section 1813 of this title) and such bank or company and all subsidiaries thereof are engaged exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a "banker's bank"), but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of the association's capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company. The limitations and restrictions contained in this paragraph as to an association purchasing for its own account investment securities shall not apply to securities that (A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); ³ (B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(53)]); or (C) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))).⁴ The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations as the Comptroller of the Currency may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.

A national banking association may deal in, underwrite, and purchase for such association's own account qualified Canadian government obligations to the same extent that such association may deal in, underwrite, and purchase for such association's own account obligations of the United States or general obligations of any State or of any political subdivision thereof. For purposes of this paragraph—

(1) the term "qualified Canadian government obligations" means any debt obligation which is backed by Canada, any Province of Canada, or any political subdivision of any such Province to a degree which is comparable to the liability of the United States, any State, or any political subdivision thereof for any obligation which is backed by the full faith and credit of the United States, such State, or such political subdivision, and such term includes any debt obligation of any agent of Canada or any such Province or any political subdivision of such Province if—

(A) the obligation of the agent is assumed in such agent's capacity as agent for Canada or such Province or such political subdivision; and

(B) Canada, such Province, or such political subdivision on whose behalf such agent is acting with respect to such obligation is ultimately and unconditionally liable for such obligation; and

(2) the term "Province of Canada" means a Province of Canada and includes the Yukon Territory and the Northwest Territories and their successors.

In addition to the provisions in this paragraph for dealing in, underwriting, or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of title 26) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 1831o of this title).

Eighth. To contribute to community funds, or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, such sums as its board of directors may deem expedient and in the interests of the association, if it is located in a State the laws of which do not expressly prohibit State banking institutions from contributing to such funds or instrumentalities.

Ninth. To issue and sell securities which are guaranteed pursuant to section 1721(g) of this title.

Tenth. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis, but such investment may not exceed 10 percent of the assets of the association.

Eleventh. To make investments directly or indirectly, each of which is designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 15 percent of the association's capital stock actually paid in and unimpaired and 15 percent of the association's unimpaired surplus fund. The foregoing standards and limitations apply to investments under this paragraph made by a national bank directly and by its subsidiaries.

(R.S. §5136; July 1, 1922, ch. 257, §1, 42 Stat. 767; Feb. 25, 1927, ch. 191, §2, 44 Stat. 1226; June 16, 1933, ch. 89, §16, 48 Stat. 184; Aug. 23, 1935, ch. 614, title III, §308, 49 Stat. 709; Feb. 3, 1938, ch. 13, §13, 52 Stat. 26; June 11, 1940, ch. 301, 54 Stat. 261; June 29, 1949, ch. 276, §1, 63 Stat. 298; July 15, 1949, ch. 338, title VI, §602(a), 63 Stat. 439; Apr. 9, 1952, ch. 169, 66 Stat. 49; Aug. 2, 1954, ch. 649, title II, §203, 68 Stat. 622; Aug. 23, 1954, ch. 834, §2, 68 Stat. 771; July 26, 1956, ch. 741, title II, §201(c), 70 Stat. 667; Pub. L. 86-137, §2, Aug. 6, 1959, 73 Stat. 285; Pub. L. 86-147, §10, Aug. 7, 1959, 73 Stat. 301; Pub. L. 86-230, §1(a), Sept. 8, 1959, 73 Stat. 457; Pub. L. 86-278, Sept. 16, 1959, 73 Stat. 563; Pub. L. 86-372, title IV, §420, Sept. 23, 1959, 73 Stat. 679; Pub. L. 88-560, title VII, §701(c), Sept. 2, 1964, 78 Stat. 800; Pub. L. 89-369, §10, Mar. 16, 1966, 80 Stat. 72; Pub. L. 89-754, title V, §504(a)(1), Nov. 3, 1966, 80 Stat. 1277; Pub. L. 90-19, §27(a), May 25, 1967, 81 Stat. 28; Pub. L. 90-448, title VIII, §§804(c), 807(j), title IX, §911, title XVII, §1705(h), Aug. 1, 1968, 82 Stat. 543, 545, 550, 605; Pub. L. 91-375, §6(d), Aug. 12, 1970, 84 Stat. 776; Pub. L. 92-318, title I, §133(c)(1), June 23, 1972, 86 Stat. 269; Pub. L. 91-143, §12(b), Dec. 9, 1969, as added Pub. L. 92-349, title I, §101, July 13, 1972, 86 Stat. 466; Pub. L. 92-500, §12(n), Oct. 18, 1972, 86 Stat. 902; Pub. L. 93-100, §5(c), Aug. 16, 1973, 87 Stat. 344; Pub. L. 93-224, §14, Dec. 29, 1973, 87 Stat. 941; Pub. L. 93-234, title II, §207, Dec. 31, 1973, 87 Stat. 984; Pub. L. 93-383, title II, §206, title VIII, §805(c)(1), Aug. 22, 1974, 88 Stat. 668, 726; Pub. L. 96-221, title VII, §711, Mar. 31, 1980, 94 Stat. 189; Pub. L. 97-35, title XIII, §1342(a), Aug. 13, 1981, 95 Stat. 743; Pub. L. 97-320, title IV, §404(b), Oct. 15, 1982, 96 Stat. 1511; Pub. L. 97-457, §18, Jan. 12, 1983, 96 Stat. 2509; Pub. L. 98-440, title I, §105(c), Oct. 3, 1984, 98 Stat. 1691; Pub. L. 98-473, title I, §101(1) [title I, §101], Oct. 12, 1984, 98 Stat. 1884, 1885; Pub. L. 100-86, title I, §108, Aug. 10, 1987, 101 Stat. 579; Pub. L. 100-449, title III, §308, Sept. 28, 1988, 102 Stat. 1877; Pub. L. 101-513, title V, §562(c)(10)(B), (e)(1)(B), Nov. 5, 1990, 104 Stat. 2036, 2037; Pub. L. 102-485, §6(a), Oct. 23, 1992, 106 Stat. 2774; Pub. L. 103-182, title V, §541(h)(1), Dec. 8, 1993, 107 Stat. 2167; Pub. L. 103-325, title II, §206(c), title III, §§322(a)(1), 347(b), Sept. 23, 1994, 108 Stat. 2199, 2226, 2241; Pub. L. 104-208, div. A, title I, §101(c) [title VII, §710(b)], title II, §2704(d)(7), Sept. 30, 1996, 110 Stat. 3009-121, 3009-181, 3009-489; Pub. L. 106-102, title I, §151, Nov. 12, 1999, 113 Stat. 1384; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §9(a), Feb. 15, 2006, 119 Stat. 3616; Pub. L. 109-351, title III, §305(a), Oct. 13, 2006, 120 Stat. 1970; Pub. L. 110-289, div. B, title V, §2503(a), July 30, 2008, 122 Stat. 2857.)

AMENDMENT OF SECTION

For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in par. Seventh, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22, 23, 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

Section 9 of the National Capital Transportation Act of 1969, referred to in par. Seventh, is section 9 of Pub. L. 91-143, as added by section 101 of title I of Pub. L. 92-349, July 13, 1972, 86 Stat. 464, which is not classified to the Code.

The Federal Farm Loan Act, referred to in par. Seventh, is act July 17, 1916, ch. 245, 39 Stat. 360, which was classified to section 641 et seq. of this title prior to its repeal by Pub. L. 92-181, §5.26(a), Dec. 10, 1971, 85 Stat. 624. See chapter 23 (§2001 et seq.) of this title.

The National Housing Act, referred to in par. Seventh, is act June 27, 1934, ch. 847, 48 Stat. 1246. Title XI of the National Housing Act is title XI of act June 27, 1934, ch. 847, as added by act Nov. 3, 1966, Pub. L. 89-754, title V, §502(a), 80 Stat. 1274, which is classified generally to subchapter IX-B (§1749aaa et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

Section 110 of the Housing Act of 1949 [42 U.S.C. 1460], referred to in par. Seventh, was omitted from the Code pursuant to section 5316 of Title 42, The Public Health and Welfare, which terminated authority to make grants or loans under title I of that Act [42 U.S.C. 1450 et seq.] after Jan. 1, 1975.

The United States Housing Act of 1937, referred to in par. Seventh, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§1437 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Housing and Urban Development Act of 1968, referred to in par. Seventh, is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476. Title IX of the Housing and Urban Development Act is classified principally to chapter 49 (§3931 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

Section 4 of the Securities Act of 1933, referred to in par. Seventh, was amended by section 201(b), (c) of Pub. L. 112-106, and the provisions which formerly appeared in section 4 of the Act now appear in section 4(a) of the Act.

CODIFICATION

Amendment by Pub. L. 98-473 is based on section 211(a) of title II of S. 2416, as introduced in the Senate on Mar. 13, 1984, which was enacted into permanent law by section 101(1) of Pub. L. 98-473.

R.S. §5136 derived from act June 3, 1864, ch. 106, §8, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2008—Par. Eleventh. Pub. L. 110-289, which directed substitution of "is designed primarily to promote the public welfare, including the welfare of" for "promotes the public welfare by benefitting primarily" in first sentence, was executed by making the substitution for "promotes the public welfare by benefitting primarily" to reflect the probable intent of Congress.

2006—Par. Eleventh. Pub. L. 109-351 amended par. generally. Prior to amendment, par. read as follows: "Eleventh. To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An

association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the Deposit Insurance Fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in and unimpaired and 10 percent of the association's unimpaired surplus fund."

Pub. L. 109-173, in fifth sentence, substituted "Deposit Insurance Fund" for "affected deposit insurance fund".

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(7). See 1996 Amendment note below.

1999—Par. Seventh. Pub. L. 106-102 inserted at end "In addition to the provisions in this paragraph for dealing in, underwriting, or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of title 26) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 1831o of this title)."

1996—Par. Seventh. Pub. L. 104-208, §101(c) [§710(b)], in seventh sentence, inserted "Bank for Economic Cooperation and Development in the Middle East and North Africa," after "the Inter-American Development Bank".

Par. Eleventh. Pub. L. 104-208, §2704(d)(7), which directed the amendment of the fifth sentence by substituting "Deposit Insurance Fund" for "affected deposit insurance fund", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1994—Par. Seventh. Pub. L. 103-325, §347(b), in last sentence of first par., substituted "(15 U.S.C. 78c(a)(41)). The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations" for "(15 U.S.C. 78c(a)(41))), subject to such regulations".

Pub. L. 103-325, §322(a)(1)(A), in fifth proviso inserted "or depository institution holding companies (as defined in section 1813 of this title)" after "(except to the extent directors' qualifying shares are required by law) by depository institutions".

Pub. L. 103-325, §322(a)(1)(B), which directed substitution in fifth proviso of "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')" for "services for other depository institutions and their officers, directors and employees", was executed by making the substitution for "services for other depository institutions and their officers, directors, and employees" to reflect the probable intent of Congress.

Pub. L. 103-325, §206(c), substituted "(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage related securities" for "or (B) are mortgage related securities".

1993—Par. Seventh. Pub. L. 103-182 inserted "the North American Development Bank," after "Inter-American Development Bank,".

1992—Par. Eleventh. Pub. L. 102-485 added par. Eleventh.

1990—Par. Seventh. Pub. L. 101-513 inserted "the European Bank for Reconstruction and Development," before "the Inter-American Development Bank," and substituted "the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation," for "the African Development Bank or the Inter-American Investment Corporation,".

1988—Par. Seventh. Pub. L. 100-449 temporarily inserted provisions authorizing national banking associations to deal in, underwrite, and purchase Canadian government obligations for the association's own account. See Effective and Termination Dates of 1988 Amendment note below.

1987—Par. Tenth. Pub. L. 100-86 added par. Tenth.

1984—Par. Seventh. Pub. L. 98-473 inserted reference to the Inter-American Investment Corporation.

Pub. L. 98-440 inserted provision that the limitations and restrictions contained in this paragraph as to an association purchasing investment securities for its own account shall not apply to securities offered and sold pursuant to section 15 U.S.C. 77d(5), or that are mortgage related securities (as defined in 15 U.S.C. 78c(a)(41)), subject to such regulations as the Comptroller of the Currency may prescribe.

1983—Par. Seventh. Pub. L. 97-457 substituted "10 per centum of the association's" for "10 per centum of its" after "exceed at any time".

1982—Par. Seventh. Pub. L. 97-320 substituted "*Provided further*, That notwithstanding any other

provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions and such bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees, but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company" for "Provided further, That, notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank".

1981—Par. Seventh. Pub. L. 97–35 inserted reference to the African Development Bank.

1980—Par. Seventh. Pub. L. 96–221 inserted proviso relating to purchase of stock in bankers' banks.

1974—Par. Seventh. Pub. L. 93–383 substituted "section 6(g) of the United States Housing Act of 1937" for references to section 1421a(b) of title 42 wherever appearing, struck out "either" before "(1)", "(which obligations shall have a maturity of not more than eighteen months)" in cl. (1) and "or" before "(2)", added cl. (3), and inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title.

1973—Par. Seventh. Pub. L. 93–234 authorized investments by national banks in agricultural credit corporations.

Pub. L. 93–224 inserted "or obligations of the Federal Financing Bank" after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

Pub. L. 93–100 inserted provision that the association may purchase shares of stock issued by state housing corporations incorporated in the state in which the association is located and make investments in loans and commitments for loans to such corporations with certain limitations.

1972—Par. Seventh. Pub. L. 92–500 inserted "or obligations of the Environmental Financing Authority" after "Government National Mortgage Association".

Pub. L. 92–349 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969.

Pub. L. 92–318 included obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Par. Seventh. Pub. L. 91–375 made limitations and restrictions contained in this section as to dealing in and underwriting investment securities inapplicable to bonds, notes and other obligations issued by the United States Postal Service.

1968—Par. Seventh. Pub. L. 90–448, §807(j), inserted "or the Government National Mortgage Association" after "Federal National Mortgage Association".

Pub. L. 90–448, §911, authorized the association to purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to sections 3931–3940 of title 42, and to make investments in a partnership, limited partnership, or joint venture formed pursuant to section 3937(a) or 3937(c) of title 42.

Pub. L. 90–448, §1705(h), included obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes.

Par. Ninth. Pub. L. 90–448, §804(c), added par. Ninth.

1967—Par. Seventh. Pub. L. 90–19 substituted "Secretary of Housing and Urban Development (hereafter in this sentence referred to as the 'Secretary')" for "Federal Housing Administrator"; and "Secretary" for "Housing and Home Finance Administrator" after "local public agency and the", for "Administrator" in two instances just before "agrees to lend", and for "Public Housing Administration" wherever appearing in cls. (1) and (2), respectively.

1966—Par. Seventh. Pub. L. 89–754 made limitations and restrictions for dealing, underwriting, and purchasing for its own account of investment securities inapplicable to obligations which are insured by Secretary of Housing and Urban Development under provisions relating to mortgage insurance for group

practice facilities.

Pub. L. 89-369 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Asian Development Bank.

1964—Par. Seventh. Pub. L. 88-560 substituted "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "or obligations of the Federal National Mortgage Association".

1959—Par. Seventh. Pub. L. 86-372 substituted "monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments" for "prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity" after "local public agency,".

Pub. L. 86-278 substituted "any" for "either" before "of said organizations" in last sentence.

Pub. L. 86-230 struck out "or the Home Owners' Loan Corporation" after "Federal Home Loan Banks".

Pub. L. 86-147 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Inter-American Development Bank.

Pub. L. 86-137 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to bonds, notes and other obligations issued by the Tennessee Valley Authority.

1959—Par. Seventh. Pub. L. 86-372 substituted "monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments" for "prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity" following "local public agency,".

Pub. L. 86-278 substituted "any" for "either" before "of said organizations" in last sentence.

Pub. L. 86-230 struck out "or the Home Owners' Loan Corporation" after "Federal Home Loan Banks".

Pub. L. 86-147 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Inter-American Development Bank.

Pub. L. 86-137 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to bonds, notes and other obligations issued by the Tennessee Valley Authority.

1956—Par. Seventh. Act July 26, 1956, removed restriction which prohibited a national bank from investing in obligations of the thirteen banks for cooperatives an amount exceeding 10 percent of its capital stock actually paid in and unimpaired and 10 percent of its unimpaired surplus.

1954—Par. Seventh. Act Aug. 23, 1954, substituted "thirteen banks for cooperatives organized under the Farm Credit Act of 1933, or any of them" for "Central Bank for Cooperatives" in last sentence.

Act Aug. 2, 1954, substituted "or obligations of the Federal National Mortgage Association" for "or obligations of national mortgage associations" in sixth sentence.

1952—Par. Seventh. Act Apr. 9, 1952, enabled national banks and State member banks of the Federal Reserve System to receive compensation in the distribution of debentures issued by the Central Bank for Cooperation.

1949—Par. Seventh. Act July 15, 1949, inserted, in next to last sentence, "or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949) as are secured by an agreement between the local public agency and the Housing and Home Finance Administrator in which the local public agency agrees to borrow from said Administrator, and said Administrator agrees to lend to said local public agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of

paying the principal of and the interest on such obligations at their maturity, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured either (1) by an agreement between the public housing agency and the Public Housing Administration in which the public housing agency agrees to borrow from the Public Housing Administration, and the Public Housing Administration agrees to lend to the public housing agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment, which are requisite to provide for the payment when due of all installments of principal and interest on such obligations".

Act June 29, 1949, inserted last sentence to permit national banks and State member banks of the Federal Reserve System to deal in and underwrite obligations issued by the International Bank subject to certain limitations.

1940—Par. Eighth. Act June 11, 1940, added par. Eighth.

1938—Par. Seventh. Act Feb. 3, 1938, inserted "or obligations of national mortgage associations" in last sentence.

1935—Par. Seventh. Act Aug. 23, 1935, amended second, fourth, and last sentences.

1933—Act June 16, 1933, among other changes, struck out closing paragraph prohibiting transaction of any business by association prior to authorization by Comptroller, except that necessarily preliminary to organization.

1927—Act Feb. 25, 1927, struck out definite period of succession in par. Second, and inserted provisos in par. Seventh.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–173, §9(j), Feb. 15, 2006, 119 Stat. 3618, provided that: "This section [amending this section and sections 338a, 347b, 1431, 1441, 1441a, 1441b, 1464, 1467a, 1723i, 1735f–14, 1828a, 1833a, 1841, 1842, and 3341 of this title] and the amendments made by this section shall take effect on the day of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund [Mar. 31, 2006, see 71 F.R. 20524] pursuant to the Federal Deposit Insurance Reform Act of 2005 [subtitle B (§§2101–2109) of title II of Pub. L. 109–171, see Short Title of 2006 Amendment note set out under section 1811 of this title]."

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–102, title I, §161, Nov. 12, 1999, 113 Stat. 1384, provided that: "This title [enacting sections 24a, 1820a, 1828a, 1828b, 1831v, 1831w, and 1848a of this title and section 6701 of Title 15, Commerce and Trade, amending this section, sections 25a, 335, 371c, 1821, 1835a, 1841 to 1844, 1849, 1850, 1864, 1971, 2903, 3101, 3106, and 3107 of this title, and section 18a of Title 15, repealing sections 78 and 377 of this title, and enacting provisions set out as notes under sections 252, 1843, and 4801 of this title and section 41 of Title 15] (other than section 104 [enacting section 6701 of Title 15]) and the amendments made by this title shall take effect 120 days after the date of the enactment of this Act [Nov. 12, 1999]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(7) of Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–325, title III, §347(d), Sept. 23, 1994, 108 Stat. 2241, provided that: "The amendments made

by this section [amending this section and section 78c of Title 15, Commerce and Trade] shall become effective upon the date of promulgation of final regulations under subsection (c) [set out below]."

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1372 of Pub. L. 97-35, set out as an Effective Date note under section 290i of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-224 effective Dec. 29, 1973, see section 20 of Pub. L. 93-224, set out as an Effective Date note under section 2281 of this title.

Amendment by Pub. L. 93-100 effective Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as an Effective Date note under section 1469 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-375, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 26, 1956, effective Jan. 1, 1957, see act July 26, 1956, ch. 741, title II, §202(a), 70 Stat. 667.

EFFECTIVE DATE OF 1933 AMENDMENT

Act June 16, 1933, ch. 89, §16, 48 Stat. 184, provided that restrictions of this section as to dealing in investment securities shall take effect one year after June 16, 1933.

REGULATIONS

Pub. L. 103-325, title III, §347(c), Sept. 23, 1994, 108 Stat. 2241, provided that: "Not later than 1 year after the date of enactment of this Act [Sept. 23, 1994], the Comptroller of the Currency shall promulgate final regulations, in accordance with the thirteenth sentence of Paragraph Seventh of section 5136 of the Revised Statutes [this section] (as amended by subsection (b)), to carry out the amendments made by this section [amending this section and section 78c of Title 15, Commerce and Trade]." [Final regulations implementing these amendments were published in the Federal Register on Dec. 2, 1996 [61 F.R. 63972], effective Dec. 31, 1996.]

ABOLITION OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of Home Owners' Loan Corporation, by act June 30, 1953, ch. 170, §21, 67 Stat. 126, see note set out under section 1463 of this title.

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.

¹ *So in original. Probably should be followed by a comma.*

² *So in original.*

³ *See References in Text note below.*

⁴ So in original. The period probably should be preceded by an additional closing parenthesis.

§24a. Financial subsidiaries of national banks

(a) Authorization to conduct in subsidiaries certain activities that are financial in nature

(1) In general

Subject to paragraph (2), a national bank may control a financial subsidiary, or hold an interest in a financial subsidiary.

(2) Conditions and requirements

A national bank may control a financial subsidiary, or hold an interest in a financial subsidiary, only if—

(A) the financial subsidiary engages only in—

(i) activities that are financial in nature or incidental to a financial activity pursuant to subsection (b); and

(ii) activities that are permitted for national banks to engage in directly (subject to the same terms and conditions that govern the conduct of the activities by a national bank);

(B) the activities engaged in by the financial subsidiary as a principal do not include—

(i) insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (except to the extent permitted under section 302 or 303(c) of the Gramm-Leach-Bliley Act [15 U.S.C. 6712 or 6713(c)]) or providing or issuing annuities the income of which is subject to tax treatment under section 72 of title 26;

(ii) real estate development or real estate investment activities, unless otherwise expressly authorized by law; or

(iii) any activity permitted in subparagraph (H) or (I) of section 1843(k)(4) of this title, except activities described in section 1843(k)(4)(H) of this title that may be permitted in accordance with section 122 of the Gramm-Leach-Bliley Act;

(C) the national bank and each depository institution affiliate of the national bank are well capitalized and well managed;

(D) the aggregate consolidated total assets of all financial subsidiaries of the national bank do not exceed the lesser of—

(i) 45 percent of the consolidated total assets of the parent bank; or

(ii) \$50,000,000,000;

(E) except as provided in paragraph (4), the national bank meets standards of credit-worthiness established by the Comptroller of the Currency or other requirement set forth in paragraph (3); and

(F) the national bank has received the approval of the Comptroller of the Currency for the financial subsidiary to engage in such activities, which approval shall be based solely upon the factors set forth in this section.

(3) Requirement

(A) In general

A national bank meets the requirements of this paragraph if the bank is one of the 100 largest insured banks and has not fewer than 1 issue of outstanding debt that meets standards of credit-worthiness or other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish.

(B) Consolidated total assets

For purposes of this paragraph, the size of an insured bank shall be determined on the basis of the consolidated total assets of the bank as of the end of each calendar year.

(4) Financial agency subsidiary

The requirement in paragraph (2)(E) shall not apply with respect to the ownership or control of a financial subsidiary that engages in activities described in subsection (b)(1) solely as agent and not directly or indirectly as principal.

(5) Regulations required

Before the end of the 270-day period beginning on November 12, 1999, the Comptroller of the Currency shall, by regulation, prescribe procedures to implement this section.

(6) Indexed asset limit

The dollar amount contained in paragraph (2)(D) shall be adjusted according to an indexing mechanism jointly established by regulation by the Secretary of the Treasury and the Board of Governors of the Federal Reserve System.

(7) Coordination with section 1843(l)(2) of this title

Section 1843(l)(2) of this title applies to a national bank that controls a financial subsidiary in the manner provided in that section.

(b) Activities that are financial in nature

(1) Financial activities

(A) In general

An activity shall be financial in nature or incidental to such financial activity only if—

(i) such activity has been defined to be financial in nature or incidental to a financial activity for bank holding companies pursuant to section 1843(k)(4) of this title; or

(ii) the Secretary of the Treasury determines the activity is financial in nature or incidental to a financial activity in accordance with subparagraph (B).

(B) Coordination between the Board and the Secretary of the Treasury

(i) Proposals raised before the Secretary of the Treasury

(I) Consultation

The Secretary of the Treasury shall notify the Board of, and consult with the Board concerning, any request, proposal, or application under this section for a determination of whether an activity is financial in nature or incidental to a financial activity.

(II) Board view

The Secretary of the Treasury shall not determine that any activity is financial in nature or incidental to a financial activity under this section if the Board notifies the Secretary in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Secretary determines to be appropriate under the circumstances) that the Board believes that the activity is not financial in nature or incidental to a financial activity or is not otherwise permissible under this section.

(ii) Proposals raised by the Board

(I) Board recommendation

The Board may, at any time, recommend in writing that the Secretary of the Treasury find an activity to be financial in nature or incidental to a financial activity for purposes of this section.

(II) Time period for secretarial action

Not later than 30 days after the date of receipt of a written recommendation from the Board under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate under the circumstances), the Secretary shall determine

whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this section, and shall notify the Board in writing of the determination of the Secretary and, in the event that the Secretary determines not to seek public comment on the proposal, the reasons for that determination.

(2) Factors to be considered

In determining whether an activity is financial in nature or incidental to a financial activity, the Secretary shall take into account—

- (A) the purposes of this Act ¹ and the Gramm-Leach-Bliley Act;
- (B) changes or reasonably expected changes in the marketplace in which banks compete;
- (C) changes or reasonably expected changes in the technology for delivering financial services; and
- (D) whether such activity is necessary or appropriate to allow a bank and the subsidiaries of a bank to—
 - (i) compete effectively with any company seeking to provide financial services in the United States;
 - (ii) efficiently deliver information and services that are financial in nature through the use of technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions; and
 - (iii) offer customers any available or emerging technological means for using financial services or for the document imaging of data.

(3) Authorization of new financial activities

The Secretary of the Treasury shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act ¹ and the Gramm-Leach-Bliley Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to a financial activity:

- (A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.
- (B) Providing any device or other instrumentality for transferring money or other financial assets.
- (C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

(c) Capital deduction

(1) Capital deduction required

In determining compliance with applicable capital standards—

- (A) the aggregate amount of the outstanding equity investment, including retained earnings, of a national bank in all financial subsidiaries shall be deducted from the assets and tangible equity of the national bank; and
- (B) the assets and liabilities of the financial subsidiaries shall not be consolidated with those of the national bank.

(2) Financial statement disclosure of capital deduction

Any published financial statement of a national bank that controls a financial subsidiary shall, in addition to providing information prepared in accordance with generally accepted accounting principles, separately present financial information for the bank in the manner provided in paragraph (1).

(d) Safeguards for the bank

A national bank that establishes or maintains a financial subsidiary shall assure that—

- (1) the procedures of the national bank for identifying and managing financial and operational risks within the national bank and the financial subsidiary adequately protect the national bank from such risks;

(2) the national bank has, for the protection of the bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the national bank and the financial subsidiaries of the national bank; and

(3) the national bank is in compliance with this section.

(e) Provisions applicable to national banks that fail to continue to meet certain requirements

(1) In general

If a national bank or insured depository institution affiliate does not continue to meet the requirements of subsection (a)(2)(C) or subsection (d), the Comptroller of the Currency shall promptly give notice to the national bank to that effect describing the conditions giving rise to the notice.

(2) Agreement to correct conditions

Not later than 45 days after the date of receipt by a national bank of a notice given under paragraph (1) (or such additional period as the Comptroller of the Currency may permit), the national bank shall execute an agreement with the Comptroller of the Currency and any relevant insured depository institution affiliate shall execute an agreement with its appropriate Federal banking agency to comply with the requirements of subsection (a)(2)(C) and subsection (d).

(3) Imposition of conditions

Until the conditions described in a notice under paragraph (1) are corrected—

(A) the Comptroller of the Currency may impose such limitations on the conduct or activities of the national bank or any subsidiary of the national bank as the Comptroller of the Currency determines to be appropriate under the circumstances and consistent with the purposes of this section; and

(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of any relevant insured depository institution affiliate or any subsidiary of the institution as such agency determines to be appropriate under the circumstances and consistent with the purposes of this section.

(4) Failure to correct

If the conditions described in a notice to a national bank under paragraph (1) are not corrected within 180 days after the date of receipt by the national bank of the notice, the Comptroller of the Currency may require the national bank, under such terms and conditions as may be imposed by the Comptroller and subject to such extension of time as may be granted in the discretion of the Comptroller, to divest control of any financial subsidiary.

(5) Consultation

In taking any action under this subsection, the Comptroller shall consult with all relevant Federal and State regulatory agencies and authorities.

(f) Failure to meet standards of credit-worthiness meet ² applicable criteria

(1) In general

A national bank that does not continue to meet standards of credit-worthiness established by the Comptroller of the Currency or other requirement of subsection (a)(2)(E) after acquiring or establishing a financial subsidiary shall not, directly or through a subsidiary, purchase or acquire any additional equity capital of any financial subsidiary until the bank meets such requirements.

(2) Equity capital

For purposes of this subsection, the term "equity capital" includes, in addition to any equity instrument, any debt instrument issued by a financial subsidiary, if the instrument qualifies as capital of the subsidiary under any Federal or State law, regulation, or interpretation applicable to the subsidiary.

(g) Definitions

For purposes of this section, the following definitions shall apply:

(1) Affiliate, company, control, and subsidiary

The terms "affiliate", "company", "control", and "subsidiary" have the meanings given those terms in section 1841 of this title.

(2) Appropriate Federal banking agency, depository institution, insured bank, and insured depository institution

The terms "appropriate Federal banking agency", "depository institution", "insured bank", and "insured depository institution" have the meanings given those terms in section 1813 of this title.

(3) Financial subsidiary

The term "financial subsidiary" means any company that is controlled by 1 or more insured depository institutions other than a subsidiary that—

(A) engages solely in activities that national banks are permitted to engage in directly and are conducted subject to the same terms and conditions that govern the conduct of such activities by national banks; or

(B) a national bank is specifically authorized by the express terms of a Federal statute (other than this section), and not by implication or interpretation, to control, such as by section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.] or the Bank Service Company Act [12 U.S.C. 1861 et seq.].

(4) Eligible debt

The term "eligible debt" means unsecured long-term debt that—

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

(B) is not held in whole or in any significant part by any affiliate, officer, director, principal shareholder, or employee of the bank or any other person acting on behalf of or with funds from the bank or an affiliate of the bank.

(5) Well capitalized

The term "well capitalized" has the meaning given the term in section 1831o of this title.

(6) Well managed

The term "well managed" means—

(A) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

(i) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

(ii) at least a rating of 2 for management, if such rating is given; or

(B) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

(R.S. §5136A, as added Pub. L. 106–102, title I, §121(a)(2), Nov. 12, 1999, 113 Stat. 1373; amended Pub. L. 111–203, title IX, §939(d), July 21, 2010, 124 Stat. 1886.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Gramm-Leach-Bliley Act, referred to in subsecs. (a)(2)(B)(iii), (b)(2)(A), (3), 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.

Section 25 of the Federal Reserve Act, referred to in subsec. (g)(3)(B), is classified to subchapter I (§601 et seq.) of chapter 6 of this title. Section 25A of the Federal Reserve Act is classified to subchapter II (§611 et

seq.) of chapter 6 of this title.

The Bank Service Company Act, referred to in subsec. (g)(3)(B), is Pub. L. 87–856, Oct. 23, 1962, 76 Stat. 1132, which is classified generally to chapter 18 (§1861 et seq.) of this title. For complete classification of this Act to the Code, see section 1861 of this title and Tables.

PRIOR PROVISIONS

A prior section 5136A of the Revised Statutes was renumbered section 5136B by Pub. L. 106–102 and is classified to section 25a of this title.

AMENDMENTS

2010—Subsec. (a)(2)(E). Pub. L. 111–203, §939(d)(1), substituted "standards of credit-worthiness established by the Comptroller of the Currency" for "any applicable rating".

Subsec. (a)(3). Pub. L. 111–203, §939(d)(2), substituted "Requirement" for "Rating or comparable requirement" in heading.

Subsec. (a)(3)(A). Pub. L. 111–203, §939(d)(3), amended subpar. (A) generally. Prior to amendment, text read as follows: "A national bank meets the requirements of this paragraph if—

"(i) the bank is 1 of the 50 largest insured banks and has not fewer than 1 issue of outstanding eligible debt that is currently rated within the 3 highest investment grade rating categories by a nationally recognized statistical rating organization; or

"(ii) the bank is 1 of the second 50 largest insured banks and meets the criteria set forth in clause (i) or such other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish by regulation and determine to be comparable to and consistent with the purposes of the rating required in clause (i)."

Subsec. (f). Pub. L. 111–203, §939(d)(4), substituted "meet standards of credit-worthiness" for "maintain public rating or" in heading.

Subsec. (f)(1). Pub. L. 111–203, §939(d)(5), substituted "standards of credit-worthiness established by the Comptroller of the Currency" for "any applicable rating".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title IX, §939(g), July 21, 2010, 124 Stat. 1887, provided that: "The amendments made by this section [amending this section, sections 1817, 1831e, and 4519 of this title, sections 78c and 80a–6 of Title 15, Commerce and Trade, and section 286hh of Title 22, Foreign Relations and Intercourse] shall take effect 2 years after the date of enactment of this Act [July 21, 2010]."

EFFECTIVE DATE

Section 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.

¹ *So in original.*

² *So in original. Probably should be "or meet".*

§25. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act July 1, 1922, ch. 257, §2, 42 Stat. 767, repealed all acts extending the period of succession of national banking associations for 20 years, and made paragraph Second of section 24 applicable in that respect.

§25a. Participation by national banks in lotteries and related activities

(a) Prohibited activities

A national bank may not—

- (1) deal in lottery tickets;
- (2) deal in bets used as a means or substitute for participation in a lottery;
- (3) announce, advertise, or publicize the existence of any lottery; ¹
- (4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A national bank may not permit—

- (1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a), or
- (2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a).

(c) Definitions

As used in this section—

- (1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting.
- (2) The term "lottery" includes any arrangement, other than a savings promotion raffle, whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—
 - (A) a random selection;
 - (B) a game, race, or contest; or
 - (C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.
- (3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.
- (4) The term "savings promotion raffle" means a contest in which the sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account or other savings program, where each ticket or entry has an equal chance of being drawn, such contest being subject to regulations that may from time to time be promulgated by the appropriate prudential regulator (as defined in section 5481 of this title).

(d) Lawful banking services connected with operation of lotteries

Nothing contained in this section prohibits a national bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Comptroller of the Currency shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(R.S. §5136B, formerly §5136A, as added Pub. L. 90–203, §1(a), Dec. 15, 1967, 81 Stat. 608; renumbered R.S. §5136B, Pub. L. 106–102, title I, §121(a)(1), Nov. 12, 1999, 113 Stat. 1373; amended Pub. L. 113–251, §3(a), Dec. 18, 2014, 128 Stat. 2889.)

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (c)(2). Pub. L. 113–251, §3(a)(1), inserted ", other than a savings promotion raffle," before "whereby" in introductory provisions.

Subsec. (c)(4). Pub. L. 113–251, §3(a)(2), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 90–203, §6, Dec. 15, 1967, 81 Stat. 611, provided that: "The amendments made by this Act [adding this section, sections 339, 1730c, and 1829a of this title, and section 1306 of Title 18, Crimes and Criminal Procedure] shall take effect on April 1, 1968."

FINDINGS

Pub. L. 113–251, §2, Dec. 18, 2014, 128 Stat. 2888, provided that: "Congress finds that—

"(1) the annual savings rate in the United States was 4.1 percent in 2012;

"(2) more than 40 percent of American households lack the savings to cover basic expenses for 3 months, if an unexpected event leads to a loss of stable income;

"(3) personal savings provide Americans with the financial resources to meet future needs, including higher education and homeownership, while also providing a safety net to weather unexpected financial shocks;

"(4) prize-linked savings products are typical savings products offered by financial institutions, like savings accounts, certificates of deposit, and savings bonds, with the added feature of offering chances to win prizes based on deposit activity;

"(5) the State of Michigan was the first State to allow credit unions to offer prize-linked savings products, and in 2009 launched the first large-scale prize-linked savings product in the United States;

"(6) the States of Connecticut, Michigan, Maine, Maryland, Nebraska, North Carolina, Rhode Island, and Washington all have laws that allow financial institutions to offer prize-linked savings products;

"(7) in the States of Michigan and Nebraska, more than 42,000 individuals have opened prize-linked savings accounts and saved more than \$72,000,000;

"(8) prize-linked savings products have been shown to successfully attract non-savers, the asset poor, and low-to-moderate income groups, providing individuals with a new tool to build personal savings; and

"(9) encouraging personal savings is in the national interest of the United States."

¹ *So in original. The word "or" probably should appear.*

§25b. State law preemption standards for national banks and subsidiaries clarified

(a) Definitions

For purposes of this section, the following definitions shall apply:

(1) National bank

The term "national bank" includes—

(A) any bank organized under the laws of the United States; and

(B) any Federal branch established in accordance with the International Banking Act of 1978 [12 U.S.C. 3101 et seq.].

(2) State consumer financial laws

The term "State consumer financial law" means a State law that does not directly or indirectly discriminate against national banks and that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction (as may be authorized for national banks to engage in), or any account related thereto, with respect to a consumer.

(3) Other definitions

The terms "affiliate", "subsidiary", "includes", and "including" have the same meanings as in section 1813 of this title.

(b) Preemption standard

(1) In general

State consumer financial laws are preempted, only if—

(A) application of a State consumer financial law would have a discriminatory effect on national banks, in comparison with the effect of the law on a bank chartered by that State;

(B) in accordance with the legal standard for preemption in the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N. A. v. Nelson, Florida Insurance Commissioner, et al.*, 517 U.S. 25 (1996), the State consumer financial law prevents or significantly interferes with the exercise by the national bank of its powers; and any preemption determination under this subparagraph may be made by a court, or by regulation or order of the Comptroller of the Currency on a case-by-case basis, in accordance with applicable law; or

(C) the State consumer financial law is preempted by a provision of Federal law other than title 62 of the Revised Statutes.

(2) Savings clause

Title 62 of the Revised Statutes and section 371 of this title do not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

(3) Case-by-case basis

(A) Definition

As used in this section the term "case-by-case basis" refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

(B) Consultation

When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when making the determination.

(4) Rule of construction

Title 62 of the Revised Statutes does not occupy the field in any area of State law.

(5) Standards of review

(A) Preemption

A court reviewing any determinations made by the Comptroller regarding preemption of a State law by title 62 of the Revised Statutes or section 371 of this title shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.

(B) Savings clause

Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.

(6) Comptroller determination not delegable

Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.

(c) Substantial evidence

No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A. v. Nelson*, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).

(d) Periodic review of preemption determinations

(1) In general

The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 43 of this title.

(2) Reports to Congress

At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.

(e) Application of State consumer financial law to subsidiaries and affiliates

Notwithstanding any provision of title 62 of the Revised Statutes or section 371 of this title, a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.

(f) Preservation of powers related to charging interest

No provision of title 62 of the Revised Statutes shall be construed as altering or otherwise affecting the authority conferred by section 85 of this title for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of "interest" under such provision.

(g) Transparency of OCC preemption determinations

The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.

(h) Clarification of law applicable to nondepository institution subsidiaries and affiliates of national banks

(1) Definitions

For purposes of this subsection, the terms "depository institution", "subsidiary", and "affiliate" have the same meanings as in section 1813 of this title.

(2) Rule of construction

No provision of title 62 of the Revised Statutes or section 371 of this title shall be construed as

preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).

(i) Visitorial powers

(1) ¹ In general

In accordance with the decision of the Supreme Court of the United States in *Cuomo v. Clearing House Assn., L. L. C.* (129 S. Ct. 2710 (2009)), no provision of title 62 of the Revised Statutes which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring an action against a national bank in a court of appropriate jurisdiction to enforce an applicable law and to seek relief as authorized by such law.

(j) Enforcement actions

The ability of the Comptroller of the Currency to bring an enforcement action under title 62 of the Revised Statutes or section 45 of title 15 does not preclude any private party from enforcing rights granted under Federal or State law in the courts.

(R.S. §5136C, as added and amended Pub. L. 111–203, title X, §§1044(a), 1045, 1047(a), July 21, 2010, 124 Stat. 2014, 2017, 2018.)

EDITORIAL NOTES

REFERENCES IN TEXT

The International Banking Act of 1978, referred to in subsec. (a)(1)(B), is Pub. L. 95–369, Sept. 17, 1978, 92 Stat. 607, which enacted chapter 32 (§3101 et seq.) and sections 347d and 611a of this title, amended sections 72, 378, 614, 615, 618, 619, 1813, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1829b, 1831b, and 1841 of this title, and enacted provisions set out as notes under sections 247, 611a, and 3101 of this title and formerly set out as notes under sections 36, 247, and 601 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Title 62 of the Revised Statutes, referred to in subsecs. (b)(1)(C), (2), (4), (5)(A), (e), (f), (h)(2), (i)(1), and (j), was in the original a reference to "this title" or "This title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

For classification of title LXII of the Revised Statutes of the United States, referred to in subsec. (b)(5)(B), see note above.

AMENDMENTS

2010—Subsec. (h). Pub. L. 111–203, §1045, added subsec. (h).

Subsecs. (i), (j). Pub. L. 111–203, §1047(a), added subsecs. (i) and (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Enactment and amendment of section by Pub. L. 111–203 effective on the designated transfer date, see section 1048 of Pub. L. 111–203, set out as a note under section 5551 of this title.

¹ So in original. No par. (2) has been enacted.

§26. Comptroller to determine if association can commence business

Whenever a certificate is transmitted to the Comptroller of the Currency, as provided in title 62 of the Revised Statutes, and the association transmitting the same notifies the Comptroller that all of its capital stock has been duly paid in, and that such association has complied with all the provisions of title 62 of the Revised Statutes required to be complied with before an association shall be authorized to commence the business of banking, the Comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of its directors, and the amount of the capital stock of which each is the owner in good faith, and generally whether such association has complied with all the provisions of title 62 of the Revised Statutes required to entitle it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors, and by the president or cashier of the association, a statement of all the facts necessary to enable the Comptroller to determine whether the association is lawfully entitled to commence the business of banking.

(R.S. §5168; Pub. L. 86-230, §2, Sept. 8, 1959, 73 Stat. 457.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified this section and to sections 16, 21, 22 to 24a, 25a, 25b, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5168 derived from act June 3, 1864, ch. 106, §17, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86-230 substituted "all" for "at least 50 per centum" before "of its capital stock".

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.

§27. Certificate of authority to commence banking

(a) If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it appears that such association is lawfully entitled to commence the business of banking, the Comptroller shall give to such association a certificate, under his hand and official seal, that such association has complied with all the provisions required to be complied with before commencing the business of banking, and that such association is authorized to commence such business. But the Comptroller may withhold from an association his certificate authorizing the commencement of business, whenever he has reason to suppose that the shareholders have formed the same for any other than the legitimate objects contemplated by title 62 of the Revised Statutes. A National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto.

(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association which is owned

exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions or depository institution holding companies and is organized to engage exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a "banker's bank").

(2) Any national banking association chartered pursuant to paragraph (1) shall be subject to such rules, regulations, and orders as the Comptroller deems appropriate, and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the national banking laws to a national bank.

(R.S. §5169; Pub. L. 95-630, title XV, §1504, Nov. 10, 1978, 92 Stat. 3713; Pub. L. 96-221, title VII, §712(a), (c), Mar. 31, 1980, 94 Stat. 189, 190; Pub. L. 97-320, title IV, §404(a), Oct. 15, 1982, 96 Stat. 1511; Pub. L. 103-325, title III, §322(a)(2), Sept. 23, 1994, 108 Stat. 2227.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in subsec. (a), was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 25b, 26, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5169 derived from act June 3, 1864, ch. 106, §§12, 18, 13 Stat. 102, 104, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103-325, §322(a)(2)(A), inserted "or depository institution holding companies" after "by other depository institutions".

Pub. L. 103-325, §322(a)(2)(B), which directed substitution of "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')" for "services for other depository institutions and their officers, directors and employees", was executed by making the substitution for "services for other depository institutions and their officers, directors, and employees" to reflect the probable intent of Congress.

1982—Pub. L. 97-320 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96-221, §712(a), (c), temporarily inserted provisions relating to treatment of national banking associations as additional banks within the contemplation of section 1842 of this title. See Termination Date of 1980 Amendment note below.

1978—Pub. L. 95-630 inserted provision that a National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION DATE OF 1980 AMENDMENT

Pub. L. 96-221, title VII, §712(c), Mar. 31, 1980, 94 Stat. 190, provided that: "The amendments made by this section [amending this section and section 1842 of this title] are hereby repealed on October 1, 1981."

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-630, title XV, §1505, Nov. 10, 1978, 92 Stat. 3713, provided that: "This title [amending this section and sections 1715z-10 and 2902 of this title and amending provisions set out as a note under section

1666f of Title 15, Commerce and Trade] shall take effect upon enactment [Nov. 10, 1978]."

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.

§28. Repealed. Pub. L. 103–325, title VI, §602(e)(1), Sept. 23, 1994, 108 Stat. 2291

Section, R.S. §5170, required publication of certificate of authority to commence banking for 60 days after issuance.

EDITORIAL NOTES

CODIFICATION

R.S. §5170 derived from act June 3, 1864, ch. 106, §18, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

§29. Power to hold real property

A national banking association may purchase, hold, and convey real estate for the following purposes, and for no others:

First. Such as shall be necessary for its accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it.

But no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years except as otherwise provided in this section.

For real estate in the possession of a national banking association upon application by the association, the Comptroller of the Currency may approve the possession of any such real estate by such association for a period longer than five years, but not to exceed an additional five years, if (1) the association has made a good faith attempt to dispose of the real estate within the five-year period, or (2) disposal within the five-year period would be detrimental to the association. Upon notification by the association to the Comptroller of the Currency that such conditions exist that require the expenditure of funds for the development and improvement of such real estate, and subject to such conditions and limitations as the Comptroller of the Currency shall prescribe, the association may expend such funds as are needed to enable such association to recover its total investment.

Notwithstanding the five-year holding limitation of this section or any other provision of title 62 of the Revised Statutes, any national banking association which on October 15, 1982, held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association.

(R.S. §5137; Feb. 25, 1927, ch. 191, §3, 44 Stat. 1227; Pub. L. 96–221, title VII, §701(a), Mar. 31, 1980, 94 Stat. 186; Pub. L. 97–25, title III, §302, July 27, 1981, 95 Stat. 145; Pub. L. 97–320, title

IV, §413, Oct. 15, 1982, 96 Stat. 1521.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in last par., was in the original "this title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 25b, 26, 27, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5137 derived from act June 3, 1864, ch. 106, §28, 13 Stat. 107, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1982—Pub. L. 97–320 substituted "Notwithstanding the five-year holding limitation of this section or any other provision of title 62 of the Revised Statutes, any national banking association which on October 15, 1982, held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association" for "Notwithstanding any other provision of this section, any national banking association which, on July 27, 1981, held title to and possession of real estate which was carried on the association's books at a nominal value on December 31, 1979, may continue to hold such real estate until December 31, 1982, if the earnings from such real estate are separately disclosed in the financial statements of the association".

1981—Pub. L. 97–25 inserted provision that any national banking association which, on July 27, 1981, held title to and possession of real estate which was carried on the association's books at a nominal value on December 31, 1979, may continue to hold such real estate until December 31, 1982, if the earnings from such real estate are separately disclosed in the financial statements of the association.

1980—Pub. L. 96–221 inserted provisions relating to authorization to hold real estate in the possession of a national banking association upon application by the association.

1927—Par. First. Act Feb. 25, 1927, struck out "immediate," before "accommodation," in par. First.

§30. Change of name or location

(a) Name change

Any national banking association, upon written notice to the Comptroller of the Currency, may change its name, except that such new name shall include the word "National".

(b) Location change

Any national banking association, upon written notice to the Comptroller of the Currency, may change the location of its main office to any authorized branch location within the limits of the city, town, or village in which it is situated, or, with a vote of shareholders owning two-thirds of the stock of such association for a relocation outside such limits and upon receipt of a certificate of approval from the Comptroller of the Currency, to any other location within or outside the limits of the city, town, or village in which it is located, but not more than thirty miles beyond such limits.

(c) Coordination with section 36 of this title

In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State from which the bank relocated such office only to the extent authorized in section 36(e)(2) of this title.

(d) Retention of "Federal" in name of converted Federal savings association

(1) In general

Notwithstanding subsection (a) or any other provision of law, any depository institution, the charter of which is converted from that of a Federal savings association to a national bank or a State bank after November 12, 1999, may retain the term "Federal" in the name of such institution if such institution remains an insured depository institution.

(2) Definitions

For purposes of this subsection, the terms "depository institution", "insured depository institution", "national bank", and "State bank" have the meanings given those terms in section 1813 of this title.

(May 1, 1886, ch. 73, §2, 24 Stat. 18; Pub. L. 86-230, §3, Sept. 8, 1959, 73 Stat. 457; Pub. L. 97-320, title IV, §405(a), Oct. 15, 1982, 96 Stat. 1512; Pub. L. 97-457, §19(a), Jan. 12, 1983, 96 Stat. 2509; Pub. L. 103-328, title I, §102(b)(2), Sept. 29, 1994, 108 Stat. 2350; Pub. L. 106-102, title VII, §723, Nov. 12, 1999, 113 Stat. 1471.)

EDITORIAL NOTES

AMENDMENTS

1999—Subsec. (d). Pub. L. 106-102 added subsec. (d).

1994—Subsec. (c). Pub. L. 103-328 added subsec. (c).

1983—Subsec. (b). Pub. L. 97-457 inserted "for a relocation outside such limits" after "stock of such association".

1982—Pub. L. 97-320 designated existing provisions as subsec. (a), substituted provisions permitting a change of name upon written notice to the Comptroller, such new name to include "National", for provisions permitting a change of name or location of the main office, with approval of the Comptroller, within city limits, etc., or outside such limits by vote of shareholders, such change to be validated by certificate of approval, and added subsec. (b).

1959—Pub. L. 86-230 required approval of Comptroller of the Currency before a national bank could change location of its main office within the limitations of the city, town, or village in which it is situated.

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.

§31. Rights and liabilities as affected by change of name

All debts, liabilities, rights, provisions, and powers of the association under its old name shall devolve upon and inure to the association under its new name.

(May 1, 1886, ch. 73, §3, 24 Stat. 19.)

§32. Liabilities and suits as affected by change of name or location

Nothing contained in sections 30 and 31 of this title shall be so construed as in any manner to release any national banking association under its old name or at its old location from any liability, or affect any action or proceeding in law in which said association may be or become a party or interested.

(May 1, 1886, ch. 73, §4, 24 Stat. 19.)

§§33 to 34c. Transferred

EDITORIAL NOTES

CODIFICATION

Act Nov. 7, 1918, ch. 209, 40 Stat. 1043, as amended, formerly classified to sections 33 to 34c of this title, which related to consolidation and merger of national banking associations and such associations and State banks, was completely amended by Pub. L. 86-230, §20, Sept. 8 1959 73 Stat. 460, and is classified to sections 215 to 215b of this title.

Section 33, acts Nov. 7, 1918, ch. 209, §1, 40 Stat. 1043; June 16, 1933, ch. 89, §24(a), 48 Stat. 190; Aug. 23, 1935, ch. 614, §330, 49 Stat. 718, related to consolidation of national banks, capital stock, dissenting shareholders, notice and valuation of shares. See section 215 of this title.

Section 34, act Nov. 7, 1918, ch. 209, §2, 40 Stat. 1044, related to effect of consolidation on rights and liabilities. See section 215 of this title.

Section 34a, act Nov. 7, 1918, ch. 209, §3, as added Feb. 25, 1927, ch. 191, §1, 44 Stat. 1225, and amended June 16, 1933, ch. 89 §24, 48 Stat. 190; Aug. 23, 1935, ch. 614, §331, 49 Stat. 719; July 14, 1952, ch. 722, §2, 66 Stat. 601, related to consolidation of State bank, etc. with national bank, capital stock and dissenting shareholders. See section 215 of this title.

Section 34b, act Nov. 7, 1918, ch. 209, §4, as added July 14, 1952, ch. 722, §1, 66 Stat. 599, related to merger of national banking associations or State banks into national banking associations. See section 215a of this title.

Section 34c, act Nov. 7, 1918, ch. 209, §5, as added July 14, 1952, ch. 722, §1, 66, Stat. 601, related to definitions. See section 215b of this title.

§35. Organization of State banks as national banking associations

Any bank incorporated by special law of any State or of the United States or organized under the general laws of any State or of the United States and having an unimpaired capital sufficient to entitle it to become a national banking association under the provisions of the existing laws may, by the vote of the shareholders owning not less than fifty-one per centum of the capital stock of such bank or banking association, with the approval of the Comptroller of the Currency be converted into a national banking association, with a name that contains the word "national": *Provided, however,* That said conversion shall not be in contravention of the State law. In such case the articles of association and organization certificate may be executed by a majority of the directors of the bank or banking institution, and the certificate shall declare that the owners of fifty-one per centum of the capital stock have authorized the directors to make such certificate and to change or convert the bank or banking institution into a national association. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a national association. The shares of any such bank may continue to be for the same amount each as they were before the conversion, and the directors may continue to be directors of the association until others are elected or appointed in accordance with the provisions of the statutes of the United States. When the Comptroller has given to such bank or banking association a certificate that the provisions of this Act have been complied with, such bank or banking association, and all its stockholders, officers, and employees shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as shall have been prescribed by the Federal Reserve Act [12 U.S.C. 221 et seq.] and the National Banking Act for associations originally organized as national banking associations.

The Comptroller of the Currency may, in his discretion and subject to such conditions as he may prescribe, permit such converting bank to retain and carry at a value determined by the Comptroller such of the assets of such converting bank as do not conform to the legal requirements relative to assets acquired and held by national banking associations. The Comptroller of the Currency may not approve the conversion of a State bank or State savings association to a national banking association or Federal savings association during any period in which the State bank or State savings association

is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, a State bank supervisor or the appropriate Federal banking agency with respect to a significant supervisory matter or a final enforcement action by a State Attorney General.

(R.S. §5154; Dec. 23, 1913, ch. 6, §8, 38 Stat. 258; Aug. 23, 1935, ch. 614, title III, §312, 49 Stat. 711; Pub. L. 97-457, §19(b), Jan. 12, 1983, 96 Stat. 2509; Pub. L. 111-203, title VI, §612(b), July 21, 2010, 124 Stat. 1612.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in first par., may refer to the Federal Reserve Act, act Dec. 23, 1913, from which this wording is derived; or section 5154 of the Revised Statutes which the Federal Reserve Act amended; or act June 3, 1864, from which R.S. §5154 was derived; or Congress might have intended to refer to the preceding provisions of the 1913 amendment. Similar reference in R.S. §5154 prior to 1913 amendment was to "this Title," meaning title 62 of the Revised Statutes, which title comprised the National Bank Act (June 3, 1864, ch. 106, 13 Stat. 99). See section 38 of this title. Note also specific reference to the Federal Reserve Act and the National Banking Act in first par.

The Federal Reserve Act, referred to in text, is act Dec. 23, 1913, ch. 6, 38 Stat. 251, which is classified principally to chapter 3 (§221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

The National Banking Act, referred to in text, is probably intended to be a reference to the National Bank Act, act June 3, 1864, ch. 106, 13 Stat. 99, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code see References in Text note set out under section 38 of this title.

CODIFICATION

R.S. §5154 derived from act June 3, 1864, ch. 106, §44, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2010—Pub. L. 111-203 inserted at end "The Comptroller of the Currency may not approve the conversion of a State bank or State savings association to a national banking association or Federal savings association during any period in which the State bank or State savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, a State bank supervisor or the appropriate Federal banking agency with respect to a significant supervisory matter or a final enforcement action by a State Attorney General."

1983—Pub. L. 97-457 substituted "with a name that contains the word 'national' " for "with any name approved by the Comptroller of the Currency" after "national banking association,".

1935—Act Aug. 23, 1935, added last par.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

EXCEPTION TO PROHIBITION ON APPROVAL OF CONVERSIONS

Pub. L. 111-203, title VI, §612(d), July 21, 2010, 124 Stat. 1613, provided that: "The prohibition on the approval of conversions under the amendments made by subsections (a), (b), and (c) [enacting section 214d of this title and amending this section and section 1464 of this title] shall not apply, if—

"(1) the Federal banking agency that would be the appropriate Federal banking agency after the proposed conversion gives the appropriate Federal banking agency or State bank supervisor that issued the cease and desist order (or other formal enforcement order) or memorandum of understanding, as appropriate, written notice of the proposed conversion including a plan to address the significant supervisory matter in a manner that is consistent with the safe and sound operation of the institution;

"(2) within 30 days of receipt of the written notice required under paragraph (1), the appropriate

Federal banking agency or State bank supervisor that issued the cease and desist order (or other formal enforcement order) or memorandum of understanding, as appropriate, does not object to the conversion or the plan to address the significant supervisory matter;

"(3) after conversion of the insured depository institution, the appropriate Federal banking agency after the conversion implements such plan; and

"(4) in the case of a final enforcement action by a State Attorney General, approval of the conversion is conditioned on compliance by the insured depository institution with the terms of such final enforcement action."

[For definitions of terms used in section 612(d) of Pub. L. 111–203, set out above, see section 5301 of this title.]

NOTIFICATION OF PENDING ENFORCEMENT ACTIONS

Pub. L. 111–203, title VI, §612(e), July 21, 2010, 124 Stat. 1613, provided that:

"(1) COPY OF CONVERSION APPLICATION.—At the time an insured depository institution files a conversion application, the insured depository institution shall transmit a copy of the conversion application to—

"(A) the appropriate Federal banking agency for the insured depository institution; and

"(B) the Federal banking agency that would be the appropriate Federal banking agency of the insured depository institution after the proposed conversion.

"(2) NOTIFICATION AND ACCESS TO INFORMATION.—Upon receipt of a copy of the application described in paragraph (1), the appropriate Federal banking agency for the insured depository institution proposing the conversion shall—

"(A) notify the Federal banking agency that would be the appropriate Federal banking agency for the institution after the proposed conversion in writing of any ongoing supervisory or investigative proceedings that the appropriate Federal banking agency for the institution proposing to convert believes is likely to result, in the near term and absent the proposed conversion, in a cease and desist order (or other formal enforcement order) or memorandum of understanding with respect to a significant supervisory matter; and

"(B) provide the Federal banking agency that would be the appropriate Federal banking agency for the institution after the proposed conversion access to all investigative and supervisory information relating to the proceedings described in subparagraph (A)."

[For definitions of terms used in section 612(e) of Pub. L. 111–203, set out above, see section 5301 of this title.]

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.

§36. Branch banks

The conditions upon which a national banking association may retain or establish and operate a branch or branches are the following:

(a) Lawful and continuous operation

A national banking association may retain and operate such branch or branches as it may have had in lawful operation on February 25, 1927, and any national banking association which continuously maintained and operated not more than one branch for a period of more than twenty-five years immediately preceding February 25, 1927, may continue to maintain and operate such branch.

(b) Converted State banks

(1) A national bank resulting from the conversion of a State bank may retain and operate as a branch any office which was a branch of the State bank immediately prior to conversion if such office—

(A) might be established under subsection (c) of this section as a new branch of the resulting national bank, and is approved by the Comptroller of the Currency for continued operation as a

branch of the resulting national bank;

(B) was a branch of any bank on February 25, 1927; or

(C) is approved by the Comptroller of the Currency for continued operation as a branch of the resulting national bank.

The Comptroller of the Currency may not grant approval under clause (C) of this paragraph if a State bank (in a situation identical to that of the national bank) resulting from the conversion of a national bank would be prohibited by the law of such State from retaining and operating as a branch an identically situated office which was a branch of the national bank immediately prior to conversion.

(2) A national bank (referred to in this paragraph as the "resulting bank"), resulting from the consolidation of a national bank (referred to in this paragraph as the "national bank") under whose charter the consolidation is effected with another bank or banks, may retain and operate as a branch any office which, immediately prior to such consolidation, was in operation as—

(A) a main office or branch office of any bank (other than the national bank) participating in the consolidation if, under subsection (c) of this section, it might be established as a new branch of the resulting bank, and if the Comptroller of the Currency approves of its continued operation after the consolidation;

(B) a branch of any bank participating in the consolidation, and which, on February 25, 1927, was in operation as a branch of any bank; or

(C) a branch of the national bank and which, on February 25, 1927, was not in operation as a branch of any bank, if the Comptroller of the Currency approves of its continued operation after the consolidation.

The Comptroller of the Currency may not grant approval under clause (C) of this paragraph if a State bank (in a situation identical to that of the resulting national bank) resulting from the consolidation into a State bank of another bank or banks would be prohibited by the law of such State from retaining and operating as a branch an identically situated office which was a branch of the State bank immediately prior to consolidation.

(3) As used in this subsection, the term "consolidation" includes a merger.

(c) New branches

A national banking association may, with the approval of the Comptroller of the Currency, establish and operate new branches: (1) Within the limits of the city, town or village in which said association is situated, if such establishment and operation are at the time expressly authorized to State banks by the law of the State in question; and (2) at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks. In any State in which State banks are permitted by statute law to maintain branches within county or greater limits, if no bank is located and doing business in the place where the proposed agency is to be located, any national banking association situated in such State may, with the approval of the Comptroller of the Currency, establish and operate, without regard to the capital requirements of this section, a seasonal agency in any resort community within the limits of the county in which the main office of such association is located, for the purpose of receiving and paying out deposits, issuing and cashing checks and drafts, and doing business incident thereto: *Provided*, That any permit issued under this sentence shall be revoked upon the opening of a State or national bank in such community. Except as provided in the immediately preceding sentence, no such association shall establish a branch outside of the city, town, or village in which it is situated unless it has a combined capital stock and surplus equal to the combined amount of capital stock and surplus, if any, required by the law of the State in which such association is situated for the establishment of such branches by State banks, or, if the law of such State requires only a minimum capital stock for the establishment of such branches by State banks, unless such association has not less than an equal amount of capital stock.

(d) Branches resulting from interstate merger transactions

A national bank resulting from an interstate merger transaction (as defined in section 1831u(f)(6) ¹ of this title) may maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B)) of such bank in accordance with section 1831u of this title.

(e) Exclusive authority for additional branches

(1) In general

Effective June 1, 1997, a national bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in subsection (g)(3)(B)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of such branch in such State by such national bank is authorized under this section or section 1823(f), 1823(k), or 1831u of this title.

(2) Retention of branches

In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if—

(A) the bank had no branches in such State; or

(B) the branch resulted from—

(i) an interstate merger transaction approved pursuant to section 1831u of this title; or

(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 1823(c) of this title.

(f) Law applicable to interstate branching operations

(1) Law applicable to national bank branches

(A) In general

The laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-State national bank to the same extent as such State laws apply to a branch of a bank chartered by that State, except—

(i) when Federal law preempts the application of such State laws to a national bank; or

(ii) when the Comptroller of the Currency determines that the application of such State laws would have a discriminatory effect on the branch in comparison with the effect the application of such State laws would have with respect to branches of a bank chartered by the host State.

(B) Enforcement of applicable State laws

The provisions of any State law to which a branch of a national bank is subject under this paragraph shall be enforced, with respect to such branch, by the Comptroller of the Currency.

(C) Review and report on actions by Comptroller

The Comptroller of the Currency shall conduct an annual review of the actions it has taken with regard to the applicability of State law to national banks (or their branches) during the preceding year, and shall include in its annual report required under section 14 of this title the results of the review and the reasons for each such action. The first such review and report after July 3, 1997, shall encompass all such actions taken on or after January 1, 1992.

(2) Treatment of branch as bank

All laws of a host State, other than the laws regarding community reinvestment, consumer protection, fair lending, establishment of intrastate branches, and the application or administration of any tax or method of taxation, shall apply to a branch (in such State) of an out-of-State national

bank to the same extent as such laws would apply if the branch were a national bank the main office of which is in such State.

(3) Rule of construction

No provision of this subsection may be construed as affecting the legal standards for preemption of the application of State law to national banks.

(g) State "opt-in" election to permit interstate branching through de novo branches

(1) In general

Subject to paragraph (2), the Comptroller of the Currency may approve an application by a national bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if—

(A) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the national bank were a State bank chartered by such State; and

(B) the conditions established in, or made applicable to this paragraph by, paragraph (2) are met.

(2) Conditions on establishment and operation of interstate branch

(A) Establishment

An application by a national bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 1831u(b) of this title.

(B) Operation

Subsections (c) and (d)(2) of section 1831u of this title shall apply with respect to each branch of a national bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section 1831u of this title apply to a branch of a national bank which resulted from an interstate merger transaction approved pursuant to such section 1831u of this title.

(3) Definitions

The following definitions shall apply for purposes of this section:

(A) De novo branch

The term "de novo branch" means a branch of a national bank which—

(i) is originally established by the national bank as a branch; and

(ii) does not become a branch of such bank as a result of—

(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

(II) the conversion, merger, or consolidation of any such institution or branch.

(B) Home State

The term "home State" means the State in which the main office of a national bank is located.

(C) Host State

The term "host State" means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

(h) Repealed. Pub. L. 104–208, div. A, title II, §2204, Sept. 30, 1996, 110 Stat. 3009–405

(i) Prior approval of branch locations

No branch of any national banking association shall be established or moved from one location to another without first obtaining the consent and approval of the Comptroller of the Currency.

(j) "Branch" defined

The term "branch" as used in this section shall be held to include any branch bank, branch office,

branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent. The term "branch", as used in this section, does not include an automated teller machine or a remote service unit.

(k) Branches in foreign countries, dependencies, or insular possessions

This section shall not be construed to amend or repeal section 25 of the Federal Reserve Act, as amended [12 U.S.C. 601 et seq.], authorizing the establishment by national banking associations of branches in foreign countries, or dependencies, or insular possessions of the United States.

(l) "State bank" and "bank" defined

The words "State bank," "State banks," "bank," or "banks," as used in this section, shall be held to include trust companies, savings banks, or other such corporations or institutions carrying on the banking business under the authority of State laws.

(R.S. §5155; Feb. 25, 1927, ch. 191, §7, 44 Stat. 1228; June 16, 1933, ch. 89, §23, 48 Stat. 189; Aug. 23, 1935, ch. 614, title III, §305, 49 Stat. 708; July 15, 1952, ch. 753, §2(b), 66 Stat. 633; Pub. L. 87-721, Sept. 28, 1962, 76 Stat. 667; Pub. L. 103-328, title I, §§102(b)(1), 103(a), Sept. 29, 1994, 108 Stat. 2349, 2352; Pub. L. 104-208, div. A, title II, §§2204, 2205(a), Sept. 30, 1996, 110 Stat. 3009-405; Pub. L. 105-24, §2(b), July 3, 1997, 111 Stat. 239; Pub. L. 111-203, title VI, §613(a), July 21, 2010, 124 Stat. 1614.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1831u of this title, referred to in subsec. (d), was subsequently amended, and subsec. (f)(6) of section 1831u no longer defines the term "interstate merger transaction". However, such term is defined elsewhere in that section.

Section 25 of the Federal Reserve Act, as amended, referred to in subsec. (k), is classified to subchapter I (§601 et seq.) of chapter 6 of this title.

CODIFICATION

R.S. §5155 derived from act Mar. 3, 1865, ch. 78, §7, 13 Stat. 484.

AMENDMENTS

2010—Subsec. (g)(1)(A). Pub. L. 111-203 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "there is in effect in the host State a law that—

"(i) applies equally to all banks; and

"(ii) expressly permits all out-of-State banks to establish de novo branches in such State; and".

1997—Subsec. (f)(1)(C). Pub. L. 105-24 added subpar. (C).

1996—Subsec. (h). Pub. L. 104-208, §2204, struck out subsec. (h) which read as follows: "The aggregate capital of every national banking association and its branches shall at no time be less than the aggregate minimum capital required by law for the establishment of an equal number of national banking associations situated in the various places where such association and its branches are situated."

Subsec. (j). Pub. L. 104-208, §2205(a), inserted at end "The term 'branch', as used in this section, does not include an automated teller machine or a remote service unit."

1994—Subsecs. (d) to (f). Pub. L. 103-328, §102(b)(1)(B), added subsecs. (d) to (f). Former subsecs. (d) to (f) redesignated (h) to (j), respectively.

Subsec. (g). Pub. L. 103-328, §103(a), added subsec. (g).

Pub. L. 103-328, §102(b)(1)(A), redesignated subsec. (g) as (k).

Subsecs. (h) to (l). Pub. L. 103-328, §102(b)(1)(A), redesignated subsecs. (d) to (h) as (h) to (l), respectively.

1962—Subsec. (b). Pub. L. 87-721 substituted provisions permitting a national bank resulting from the conversion of a State bank to retain and operate as a branch any office which was a branch of the State bank immediately prior to conversion if such office might be established as a new branch of the resulting national bank, and is approved by the Comptroller for continued operation as a branch of the resulting bank, or any office which was a branch of any bank on Feb. 25, 1927, or any office which is approved by the Comptroller for continued operation as a branch, and a national bank resulting from consolidation of a national bank under

whose charter the consolidation is effected with another bank or banks to retain and operate any office which, immediately prior to consolidation, was in operation as a main office or branch office of any bank (other than the national bank) participating in the consolidation if it might be established as a new branch of the resulting bank, and if the Comptroller approves of its continued operation, or was in operation as a branch of any bank participating in the consolidation and which, on Feb. 25, 1927, was in operation as a branch of any bank, or was in operation as a branch of the national bank and which, on Feb. 25, 1927, was not in operation as a branch of any bank, if the Comptroller approves of its continued operation, for provisions which permitted State banks converted into or consolidated with national banking associations after Feb. 25, 1927, or two or more national banking associations which are consolidated, to retain and operate only those branches which may have been in lawful operation on Feb. 25, 1927, and inserted provisions prohibiting the Comptroller from granting approval under clauses (1)(C) and (2)(C) if a State bank resulting from the conversion or consolidation would be prohibited by law of the State from retaining and operating as a branch an identically situated office which was a branch of the national bank or State bank immediately prior to the conversion or consolidation.

1952—Subsec. (c). Act July 15, 1952, struck out the minimum capital requirement for the establishment of branches by national banks.

1935—Subsec. (c). Act Aug. 23, 1935, inserted second sentence and substituted "Except as provided in the immediately preceding sentence, no" for "No" in last sentence.

1933—Subsecs. (c), (d). Act June 16, 1933, amended subsecs. (c) and (d).

1927—Act Feb. 25, 1927, amended section generally.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

RIGHT OF STATE TO OPT OUT

Nothing in Pub. L. 105–24 to alter right of States under section 525 of Pub. L. 96–221, see section 3 of Pub. L. 105–24, set out as a note under section 1831a of this title.

APPLICABILITY OF MCFADDEN ACT TO PRESENT FINANCIAL ENVIRONMENT; REPORT AND RECOMMENDATIONS BY PRESIDENT TO CONGRESS

Pub. L. 95–369, §14, Sept. 17, 1978, 92 Stat. 625, provided for a report to Congress by the President, not later than one year after Sept. 17, 1978, containing recommendations concerning the applicability of the McFadden Act [Feb. 25, 1927, ch. 191, 44 Stat. 1224] to the then current financial, banking, and economic environment.

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.

¹ [*See References in Text note below.*](#)

§37. Associations governed by chapter

The provisions of chapters 2, 3, and 4 of title 62 of the Revised Statutes, which are expressed without restrictive words, as applying to "national banking associations," or to "associations," apply to all associations organized to carry on the business of banking under any Act of Congress.

(R.S. §5157.)

EDITORIAL NOTES

REFERENCES IN TEXT

Chapters 2, 3, and 4 of title 62 of the Revised Statutes, referred to in text, was in the original "chapters two, three, and four of this Title," meaning chapters 2, 3, and 4 of title 62 of the Revised Statutes, consisting of R.S. §§5157 to 5244, which are classified to this section and sections 16, 26, 27, 43, 55, 56, 60, 62, 81, 83 to 86, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 481 to 485, 501, 541, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5157 to 5244 to the Code, see Tables.

§38. The National Bank Act

The Act entitled "An Act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, shall be known as "The National Bank Act."

(June 20, 1874, ch. 343, §1, 18 Stat. 123.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99. The act was incorporated into the Revised Statutes as R.S. §§324 to 327, 328 to 331, 333, 380, 563, 629, 736, 884, 885, 3473, 3475, 3651, 5133 to 5136, 5137 to 5154, 5156, 5158 to 5170, 5172, 5173, 5175, 5177, 5182 to 5184, 5187, 5189, 5190 to 5192, 5195 to 5204, 5206, 5209 to 5211, 5214 to 5215, 5219 to 5222, 5224 to 5239, 5240 to 5242, 5417, which are classified to sections 1 to 4, 8, 11 to 14, 21, 22 to 24, 26, 27, 29, 35, 39, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81, 84 to 86, 90, 91, 93, 94, 141 to 144, 161, 165, 181, 182, 192 to 194, 196, 481 to 485, 541, and 548 of this title, section 197 of Title 19, Customs Duties, and section 543 of former Title 31, Money and Finance. See, also, sections 8, 333, 334, 471, 472, 656, and 1005 of Title 18, Crimes and Criminal Procedure, and sections 507, 1348, 1394, and 1733 of Title 28, Judiciary and Judicial Procedure.

§39. Reservation of rights of associations organized under Act of 1863

Nothing in title 62 of the Revised Statutes shall affect any appointments made, acts done, or proceedings had or commenced prior to the third day of June 1864, in or toward the organization of any national banking association under the act of February 25, 1863; but all associations which, on the third day of June 1864, were organized or commenced to be organized under that act, shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by title 62 of the Revised Statutes, notwithstanding all the steps prescribed by title 62 of the Revised Statutes for the organization of associations were not pursued, if such associations were duly organized under that act.

(R.S. §5156.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

Act of February 25, 1863, referred to in text, was act Feb. 25, 1863, ch. 58, 12 Stat. 665, which was the original National Bank Act, and was repealed by act June 3, 1864, ch. 106, §62, 13 Stat. 118.

CODIFICATION

R.S. §5156 derived from act June 3, 1864, ch. 106, §62, 13 Stat. 118, which was the National Bank Act. See

section 38 of this title.

§40. Virgin Islands; extension of National Bank Act

The National Bank Act, as amended [12 U.S.C. 21 et seq.], and all other Acts of Congress relating to national banks, shall, insofar as not locally inapplicable after July 19, 1932, apply to the Virgin Islands of the United States.

(July 19, 1932, ch. 508, 47 Stat. 703.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

§41. Guam; extension of National Bank Act

The National Bank Act [12 U.S.C. 21 et seq.], and all other Acts of Congress relating to national banks, shall, insofar as not locally inapplicable after August 1, 1956, apply to Guam.

(Aug. 1, 1956, ch. 852, §2, 70 Stat. 908.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

§42. Territorial application

The provisions of all Acts of Congress relating to national banks shall apply in the several States, the District of Columbia, the several Territories and possessions of the United States, and the Commonwealth of Puerto Rico.

(Pub. L. 86-230, §14, Sept. 8, 1959, 73 Stat. 458.)

§43. Interpretations concerning preemption of certain State laws

(a) Notice and opportunity for comment required

Before issuing any opinion letter or interpretive rule, in response to a request or upon the agency's own motion, that concludes that Federal law preempts the application to a national bank of any State law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches, or before making a determination under section 36(f)(1)(A)(ii) of this title, the appropriate Federal banking agency (as defined in section 1813 of this title) shall—

(1) publish in the Federal Register notice of the preemption or discrimination issue that the agency is considering (including a description of each State law at issue);

(2) give interested parties not less than 30 days in which to submit written comments; and

(3) in developing the final opinion letter or interpretive rule issued by the agency, or making any determination under section 36(f)(1)(A)(ii) of this title, consider any comments received.

(b) Publication required

The appropriate Federal banking agency shall publish in the Federal Register—

(1) any final opinion letter or interpretive rule concluding that Federal law preempts the application of any State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches to a national bank; and

(2) any determination under section 36(f)(1)(A)(ii) of this title.

(c) Exceptions

(1) No new issue or significant basis

This section shall not apply with respect to any opinion letter or interpretive rule that—

(A) raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the courts or on which the agency has previously issued an opinion letter or interpretive rule; or

(B) responds to a request that contains no significant legal basis on which to make a preemption determination.

(2) Judicial, legislative, or intragovernmental materials

This section shall not apply with respect to materials prepared for use in judicial proceedings or submission to Congress or a Member of Congress, or for intragovernmental use.

(3) Emergency

The appropriate Federal banking agency may make exceptions to subsection (a) if—

(A) the agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of any national bank; or

(B) the opinion letter or interpretive rule is issued in connection with—

(i) an acquisition of 1 or more banks in default or in danger of default (as such terms are defined in section 1813 of this title); or

(ii) an acquisition with respect to which the Federal Deposit Insurance Corporation provides assistance under section 1823(c) of this title.

(R.S. §5244, as added Pub. L. 103–328, title I, §114, Sept. 29, 1994, 108 Stat. 2366.)

EDITORIAL NOTES

CODIFICATION

Another R.S. §5244 is classified to section 8 of Title 33, Navigation and Navigable Waters.

SUBCHAPTER II—CAPITAL, STOCK, AND STOCKHOLDERS

§51. Repealed. Pub. L. 106–569, title XII, §1233(c), Dec. 27, 2000, 114 Stat. 3037

Section, R.S. §5138; Mar. 14, 1900, ch. 41, §10, 31 Stat. 48; Feb. 25, 1927, ch. 191, §4, 44 Stat. 1227; June 16, 1933, ch. 89, §17(a), 48 Stat. 185; Aug. 23, 1935, ch. 614, title III, §309, 49 Stat. 709, related to capital and surplus requirements.

§51a. Preferred stock; issuance authorized

Notwithstanding any other provision of law, any national banking association may, with the approval of the Comptroller of the Currency and by vote of shareholders owning a majority of the stock of such association, upon not less than five days' notice, given by registered mail or by certified mail pursuant to action taken by its board of directors, issue preferred stock of one or more classes, in such amount and with such par value as shall be approved by said Comptroller, and make such amendments to its articles of association as may be necessary for this purpose; but, in the case of any

newly organized national banking association which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in and notice thereof, duly acknowledged before a notary public by the president, vice president, or cashier of said association, has been transmitted to the Comptroller of the Currency and his certificate obtained specifying the amount of such issue of preferred stock and his approval thereof and that the amount has been duly paid in as a part of the capital of such association; which certificate shall be deemed to be conclusive evidence that such preferred stock has been duly and validly issued.

(Mar. 9, 1933, ch. 1, title III, §301, 48 Stat. 5; June 15, 1933, ch. 79, 48 Stat. 147; Aug. 23, 1935, ch. 614, title III, §336, 49 Stat. 720; Pub. L. 86-507, §1(9), June 11, 1960, 74 Stat. 200.)

EDITORIAL NOTES

AMENDMENTS

1960—Pub. L. 86-507 inserted "or by certified mail" after "registered mail".

1935—Act Aug. 23, 1935, amended last sentence generally.

1933—Act June 15, 1933, struck out all of former section and inserted a new section which incorporated all former provisions and inserted "of one or more classes," in first sentence.

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.

§51b. Dividends, voting, and retirement of preferred stock; individual liability

(a) Notwithstanding any other provision of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of such preferred stock shall be entitled to receive such cumulative dividends and shall have such voting and conversion rights and such control of management, and such stock shall be subject to retirement in such manner and upon such conditions, as may be provided in the articles of association with the approval of the Comptroller of the Currency. The holders of such preferred stock shall not be held individually responsible as such holders for any debts, contracts, or engagements of such association, and shall not be liable for assessments to restore impairments in the capital of such association as now provided by law with reference to holders of common stock.

(b) No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full; and, if the association is placed in voluntary liquidation or a conservator or a receiver is appointed therefor, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have been paid in full the par value of such stock plus all accumulated dividends.

(Mar. 9, 1933, ch. 1, title III, §302, 48 Stat. 5; June 15, 1933, ch. 79, 48 Stat. 148; Pub. L. 96-221, title VII, §702, Mar. 31, 1980, 94 Stat. 186.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-221 struck out limitation on payment of cumulative dividends at a rate not exceeding 6 per centum per annum.

1933—Subsec. (a). Act June 15, 1933, struck out former subsec. (a) and inserted a new subsec. (a) which incorporated all former provisions and inserted "Notwithstanding any other provision of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise" and "and conversion rights," in first sentence.

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.

§51b-1. Consideration of preferred stock in determining impairment of capital; dividends; retirement

If any part of the capital of a national bank, State member bank, or bank applying for membership in the Federal Reserve System consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based upon the par value of its stock even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred stock. If any such bank or trust company shall have outstanding any capital notes or debentures of the type which the Reconstruction Finance Corporation is authorized to purchase pursuant to the provisions of section 51d of this title, the capital of such bank may be deemed to be unimpaired if the sound value of its assets is not less than its total liabilities, including capital stock, but excluding such capital notes or debentures and any obligations of the bank expressly subordinated thereto. Notwithstanding any other provision of law, the holders of preferred stock issued by a national banking association pursuant to the provisions of the Emergency Banking and Bank Conservation Act, approved March 9, 1933, as amended, shall be entitled to receive such cumulative dividends on the purchase price received by the association for such stock and, in the event of the retirement of such stock, to receive such retirement price, not in excess of such purchase price plus all accumulated dividends, as may be provided in the articles of association with the approval of the Comptroller of the Currency. If the association is placed in voluntary liquidation, or if a conservator or a receiver is appointed therefor, no payment shall be made to the holders of common stock until the holders of preferred stock shall have been paid in full such amount as may be provided in the articles of association with the approval of the Comptroller of the Currency, not in excess of such purchase price of such preferred stock plus all accumulated dividends.

(Aug. 23, 1935, ch. 614, title III, §345, 49 Stat. 722; Pub. L. 96-221, title VII, §703, Mar. 31, 1980, 94 Stat. 186.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 51d of this title, referred to in text, which was section 304 of the Emergency Banking and Bank Conservation Act, approved March 9, 1933, ch. 1, 48 Stat. 6, as amended, and which authorized the Reconstruction Finance Corporation, upon the request of the Secretary of the Treasury approved by the President, to purchase, or to make loans upon, the capital stock of any bank or trust company requiring funds for capital purposes in connection with its organization or reorganization, and which made provision for the purchase of the capital notes of banks organized in States which subject holders of preferred stock to double liability and for the sale of any stock or notes purchased under such authority, was repealed by act June 30, 1947, ch. 166, title II, §206(b), (o), 61 Stat. 208. However, according to the information received from the Department of the Treasury, the second sentence of this section is not obsolete even though it contains such obsolete reference to section 51d of this title, and even though, under 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, the Reconstruction Finance Corporation was abolished, for many banks have outstanding debentures which they obtained pursuant to the provisions of section 51d, and which they are not required to redeem; and their benefits or entitlements conferred by the second sentence of this section will remain until the debentures are redeemed.

The Emergency Banking and Bank Conservation Act, approved March 9, 1933, as amended, referred to in text, is act Mar. 9, 1933, ch. 1, 48 Stat. 1, which is classified to sections 51a, 51b, 51c, 51d, 95, 201 to 212,

248, 347b, 347c, 347d, and 445 of this title and section 4305 of Title 50, War and National Defense, and classified as a note under section 4305 of Title 50.

AMENDMENTS

1980—Pub. L. 96–221 struck out limitation on payment of cumulative dividends at a rate not exceeding 6 per centum per annum.

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.

§51c. "Common stock", "capital", and "capital stock" defined

The term "common stock" as used in sections 51a, 51b, 51c, and 51d ¹ of this title means stock of national banking associations other than preferred stock issued under the provisions of said sections. The term "capital" as used in provisions of law relating to the capital of national banking associations shall mean the amount of unimpaired common stock plus the amount of preferred stock outstanding and unimpaired; and the term "capital stock", as used in sections 101, 177, and 178 ¹ of this title, shall mean only the amount of common stock outstanding.

(Mar. 9, 1933, ch. 1, title III, §303, 48 Stat. 5.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 51d of this title, referred to in text, was repealed by act June 30, 1947, ch. 166, title II, §206(b), (o), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see note under section 51b–1 of this title.

Sections 101, 177, and 178 of this title, referred to in text, were repealed by Pub. L. 103–325, title VI, §602(f)(2), (5), Sept. 23, 1994, 108 Stat. 2292, 2293.

¹ [*See References in Text note below.*](#)

§§51d to 51f. Repealed. June 30, 1947, ch. 166, title II, §206(b), (o), 61 Stat. 208

Section 51d, acts Mar. 9, 1933, ch. 1, title III, §304, 48 Stat. 6; Mar. 24, 1933, ch. 8, §2, 48 Stat. 21; Mar. 20, 1936, ch. 160, §1, 49 Stat. 1185; June 25, 1940, ch. 427, §1, 54 Stat. 572, related to subscription for and sale of preferred stock in banks by the Reconstruction Finance Corporation.

Sections 51e and 51f, act Mar. 20, 1936, ch. 160, §§2, 3, 49 Stat. 1185, related to rate of interest on loans and separability provisions.

§52. Par value and incidents of stock; transfer of shares

The capital stock of each association shall be divided into shares of \$100 each, or into shares of such less amount as may be provided in the articles of association, and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

Certificates issued after August 23, 1935, representing shares of stock of the association shall state

(1) the name and location of the association, (2) the name of the holder of record of the stock represented thereby, (3) the number and class of shares which the certificate represents, and (4) if the association shall issue stock of more than one class, the respective rights, preferences, privileges, voting rights, powers, restrictions, limitations, and qualifications of each class of stock issued shall be stated in full or in summary upon the front or back of the certificates or shall be incorporated by a reference to the articles of association set forth on the front of the certificates. Every certificate shall be signed by the president and the cashier of the association, or by such other officers as the bylaws of the association shall provide, and shall be sealed with the seal of the association.

After August 23, 1935, no certificate evidencing the stock of any such association shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934, in holding the bank premises of such association, nor shall the ownership, sale, or transfer of any certificate representing the stock of any such association be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such association: *Provided*, That this section shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a national banking association.

(R.S. §5139; Feb. 25, 1927, ch. 191, §16, 44 Stat. 1233; June 16, 1933, ch. 89, §18, 48 Stat. 186; Aug. 23, 1935, ch. 614, title III, §§310(a), 335, 49 Stat. 710, 720.)

EDITORIAL NOTES

CODIFICATION

R.S. §5139 derived from act June 3, 1864, ch. 106, §12, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, §335, added second par.

Act Aug. 23, 1935, §310(a), among other changes in last par., inserted proviso.

1933—Act June 16, 1933, added last par.

1927—Act Feb. 25, 1927, inserted "or into shares of such less amount as may be provided in the articles of association" in first sentence.

§53. When capital stock paid in

All of the capital stock of every national banking association shall be paid in before it shall be authorized to commence business.

(R.S. §5140; Pub. L. 86–230, §4, Sept. 8, 1959, 73 Stat. 457.)

EDITORIAL NOTES

CODIFICATION

R.S. §5140 derived from act June 3, 1864, ch. 106, §14, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86–230 substituted requirement that all the capital stock of a national bank must be paid in before it commences business for permissive authority to be open for business upon payment of 50 per centum of the capital stock and installment payment of the remaining 50 per centum.

§54. Repealed. Pub. L. 86–230, §5, Sept. 8, 1959, 73 Stat. 457

Section, R.S. §5141, related to failure to pay installments, remedy and effect if reduction of capital resulted.

§55. Enforcing payment of deficiency in capital stock; assessments; liquidation; receivership

Every association which shall have failed to pay up its capital stock, as required by law, and every association whose capital stock shall have become impaired by losses or otherwise, shall, within three months after receiving notice thereof from the Comptroller of the Currency, pay the deficiency in the capital stock, by assessment upon the shareholders pro rata for the amount of capital stock held by each; and the Treasurer of the United States shall withhold the interest upon all bonds held by him in trust for any such association, upon notification from the Comptroller of the Currency, until otherwise notified by him. If any such association shall fail to pay up its capital stock, and shall refuse to go into liquidation, as provided by law, for three months after receiving notice from the comptroller, a receiver may be appointed to close up the business of the association, according to the provisions of section 192 of this title. *And provided*, That if any shareholder or shareholders of such bank shall neglect or refuse, after three months' notice, to pay the assessment, as provided in this section, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such shareholder or shareholders to be sold at public auction (after thirty days' notice shall be given by posting such notice of sale in the office of the bank, and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto,) ¹ to make good the deficiency, and the balance, if any, shall be returned to such delinquent shareholder or shareholders.

(R.S. §5205; June 30, 1876, ch. 156, §4, 19 Stat. 64.)

EDITORIAL NOTES

CODIFICATION

R.S. §5205 derived from act Mar. 3, 1873, ch. 269, §1, 17 Stat. 603.

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, formerly set out in the Appendix to Title 5, Government Organization and Employees. See section 321(c) of Title 31, Money and Finance. The Comptroller of the Currency and the Treasurer of the United States, both referred to in this section, are officers of the Treasury Department, but such Plan excepted, from the transfer, any function vested by law in the Comptroller of the Currency.

¹ *So in original.*

§56. Prohibition on withdrawal of capital; unearned dividends

No association, or any member thereof, shall, during the time it shall continue its banking

operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it continues its banking operations, to an amount greater than its undivided profits, subject to other applicable provisions of law. But nothing in this section shall prevent the reduction of the capital stock of the association under section 59 of this title.

(R.S. §5204; Pub. L. 103–325, title VI, §602(h)(1), Sept. 23, 1994, 108 Stat. 2294.)

EDITORIAL NOTES

CODIFICATION

R.S. §5204 derived from act June 3, 1864, ch. 106, §38, 13 Stat. 110, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103–325 substituted "undivided profits, subject to other applicable provisions of law" for "net profits then on hand, deducting therefrom its losses and bad debts" in second sentence and struck out after second sentence "All debts due to any associations, on which interest is past due and unpaid for a period of six months, unless the same are well secured, and in process of collection, shall be considered bad debts within the meaning of this section."

§57. Increase of capital by provision in articles of association

Any national banking association may, with the approval of the Comptroller of the Currency, and by a vote of shareholders owning two-thirds of the stock of such associations, increase its capital stock to any sum approved by the said comptroller, but no increase in capital shall be valid until the whole amount of such increase is paid in and notice thereof, duly acknowledged before a notary public by the president, vice president, or cashier of said association, has been transmitted to the Comptroller of the Currency and his certificate obtained specifying the amount of such increase in capital stock and his approval thereof, and that it has been duly paid in as part of the capital of such association: *Provided, however,* That a national banking association may, with the approval of the Comptroller of the Currency, and by the vote of shareholders owning two-thirds of the stock of such association, increase its capital stock by the declaration of a stock dividend, provided that the surplus of said association, after the approval of the increase, shall be at least equal to 20 per centum of the capital stock as increased. Such increase shall not be effective until a certificate certifying to such declaration of dividend, signed by the president, vice president, or cashier of said association and duly acknowledged before a notary public, shall have been forwarded to the Comptroller of the Currency and his certificate obtained specifying the amount of such increase of capital stock by stock dividend, and his approval thereof.

(R.S. §5142; Feb. 25, 1927, ch. 191, §5, 44 Stat. 1227.)

EDITORIAL NOTES

CODIFICATION

R.S. §5142 derived from act June 3, 1864, ch. 106, §13, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1927—Act Feb. 25, 1927, among other changes, inserted proviso.

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.

§58. Repealed. Pub. L. 86–230, §6, Sept. 8, 1959, 73 Stat. 457

Section, act May 1, 1886, ch. 73, §1, 24 Stat. 18, related to increase of capital by vote of shareholders. See section 57 of this title.

§59. Reduction of capital

(a) In general

Subject to the approval of the Comptroller of the Currency, a national banking association may, by a vote of shareholders owning, in the aggregate, two-thirds of its capital stock, reduce its capital.

(b) Shareholder distributions authorized

As part of its capital reduction plan approved in accordance with subsection (a), and with the affirmative vote of shareholders owning at least two thirds of the shares of each class of its stock outstanding (each voting as a class), a national banking association may distribute cash or other assets to its shareholders.

(R.S. §5143; Dec. 23, 1913, ch. 6, §28, 38 Stat. 274; Aug. 23, 1935, ch. 614, title III, §334, 49 Stat. 720; Pub. L. 109–351, title III, §304, Oct. 13, 2006, 120 Stat. 1970.)

EDITORIAL NOTES

CODIFICATION

R.S. §5143 derived from act June 3, 1864, ch. 106, §13, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2006—Pub. L. 109–351 amended section generally. Prior to amendment, section read as follows: "Any association formed under title 62 of the Revised Statutes may, by the vote of shareholders owning two-thirds of its capital stock, reduce its capital to any sum not below the amount required by title 62 of the Revised Statutes to authorize the formation of associations; but no such reduction shall be allowable which will reduce the capital of the association below the amount required for its outstanding circulation, nor shall any reduction be made until the amount of the proposed reduction has been reported to the Comptroller of the Currency and such reduction has been approved by said Comptroller of the Currency and no shareholder shall be entitled to any distribution of cash or other assets by reason of any reduction of the common capital of any association unless such distribution shall have been approved by the Comptroller of the Currency and by the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting as classes."

1935—Act Aug. 23, 1935, substituted "and no shareholder shall be entitled to any distribution of cash or other assets by reason of any reduction of the common capital of any association unless such distribution shall have been approved by the Comptroller of the Currency and by the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting as classes" for "and by the Federal Reserve Board or by the organization committee pending the organization of the Federal Reserve Board".

§60. National bank dividends

(a) In general

Subject to subsection (b), the directors of any national bank may declare a dividend of so much of the undivided profits of the bank as the directors judge to be expedient.

(b) Approval required under certain circumstances

A national bank may not declare and pay dividends in any year in excess of an amount equal to the

sum of the total of the net income of the bank for that year and the retained net income of the bank for the preceding 2 years, minus the sum of any transfers required by the Comptroller of the Currency and any transfers required to be made to a fund for the retirement of any preferred stock, unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.

(R.S. §5199; Aug. 23, 1935, ch. 614, title III, §315, 49 Stat. 712; Pub. L. 86-230, §21(a), Sept. 8, 1959, 73 Stat. 465; Pub. L. 103-325, title VI, §602(h)(2), Sept. 23, 1994, 108 Stat. 2294; Pub. L. 109-351, title III, §302(a), Oct. 13, 2006, 120 Stat. 1970.)

EDITORIAL NOTES

CODIFICATION

R.S. §5199 derived from act June 3, 1864, ch. 106, §33, 13 Stat. 109, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2006—Pub. L. 109-351 amended section generally. Prior to amendment, section related to periodic declarations of dividends subject to certain surplus fund requirements and to the approval of the Comptroller of the Currency in certain situations.

1994—Subsec. (a). Pub. L. 103-325, §602(h)(2)(A), (B), substituted "undivided profits of the association, subject to the limitations in subsection (b) of this section," for "net profits of the association" in first sentence and "net income" for "net profits" wherever subsequently appearing.

Subsec. (b). Pub. L. 103-325, §602(h)(2)(B), substituted "net income" for "net profits" in two places.

Subsec. (c). Pub. L. 103-325, §602(h)(2)(C), struck out subsec. (c) which read as follows: "For the purpose of this section the term 'net profits' shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all Federal and State taxes."

1959—Pub. L. 86-230 designated existing provisions as subsec. (a), authorized the declaration of dividends, quarterly and annually, when at least one-tenth of the bank's net profits of the preceding half year or of the preceding two consecutive half-year periods has been carried to the surplus fund, respectively, and added subsecs. (b) and (c).

1935—Act Aug. 23, 1935, among other changes, inserted proviso.

§61. Shareholders' voting rights; cumulative and distributive voting; preferred stock; trust shares; proxies, liability restrictions; percentage requirement exclusion of trust shares

In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or, if so provided by the articles of association of the national bank, to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; except that (1) this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association, or amendments thereto, adopted pursuant to the provisions of section 51b of this title; (2) in the election of directors, shares of its own stock held by a national bank as sole trustee, whether registered in its own name as such trustee or in the name of its nominee, shall not be voted by the registered owner unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how such shares shall be voted; and (3) shares of its own stock held by a national bank and one or more persons as trustees may be voted by such other person or persons, as trustees, in the same manner as if he or they were the sole trustee. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk,

teller, or bookkeeper of such bank shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote. Whenever shares of stock cannot be voted by reason of being held by the bank as sole trustee such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

(R.S. §5144; June 16, 1933, ch. 89, §19, 48 Stat. 186; Aug. 23, 1935, ch. 614, title III, §311, 49 Stat. 710; Sept. 3, 1954, ch. 1263, §21, 68 Stat. 1234; Pub. L. 86-114, §4, July 28, 1959, 73 Stat. 264; Pub. L. 89-485, §13(c), July 1, 1966, 80 Stat. 242; Pub. L. 109-351, title III, §301, Oct. 13, 2006, 120 Stat. 1969.)

EDITORIAL NOTES

CODIFICATION

R.S. §5144 derived from act June 3, 1864, ch. 106, §11, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2006—Pub. L. 109-351 substituted "or, if so provided by the articles of association of the national bank, to cumulate" for "or to cumulate" and struck out comma after "his shares shall equal".

1966—Pub. L. 89-485 struck out: clause (4) requirement of a voting permit from the Board for voting shares controlled by a holding company affiliate of a national bank except when voting in favor of voluntary liquidation of an association; second par. definition of control of shares by a holding company affiliate; third par, prescribing procedure for obtaining a voting permit: application to Board, grant or denial of permit in the public interest, factors for consideration, and conditions described in subsecs. (a) to (e) for granting a permit; subsec. (a) requirement of agreement of the holding company affiliate to an examination of the affiliate by bank examiners, reports by such examiners, examination of affiliated banks, and publication of individual or consolidated statements of condition of such banks; subsec. (b) provisions for possession of readily marketable assets other than bank stock and reinvestment of a prescribed amount of net earnings in such assets; subsec. (c) provisions for reserve of assets, use of assets for capital replacement, and situations involving more than one holding company affiliate; subsec. (d) provisions for penalties for false entries; subsec. (e) requirements for disclosure in application of a absence of securities company status and for declaration of dividends out of net earnings; penultimate par. prescribing procedure for revocation of voting permit and prohibiting the use of the bank as a depository for public moneys of the United States and payment of dividends to the affiliate; and last par. authorization for forfeiture of rights, privileges, and franchises of national banks.

1959—Subsec. (c). Pub. L. 86-114 authorized the Board to designate one of the chain of holding company affiliates which would have to maintain the 12 percent reserve and exempted the other holding company affiliates from the requirement.

1954—Subsec. (d). Act Sept. 3, 1954, substituted "section 1005 of Title 18" for "section 592 of this title".

1935—Act Aug. 23, 1935, amended first par., first sentence of third par., and inserted "and the provisions of this subsection, instead of subsection (b), shall apply to all holding company affiliates with respect to any shares of bank stock owned or controlled by them as to which there is no statutory liability imposed upon the holders of such bank stock" at end of subsec. (c).

1933—Act June 16, 1933, inserted provisions for cumulative voting of shares or distribution of votes on a cumulative voting principle, prohibited national banks holding their own shares as sole trustee from voting such shares but permitted such shares to be voted when held by another person or persons as trustees with the bank, denied voting rights to shares controlled by a holding company affiliate of a national bank unless a voting permit was first obtained, provided for application for a voting permit to the Federal Reserve Board, specified conditions for granting the voting permit and procedure for its revocation, and authorized the forfeiture of a National Bank's rights, privileges, and franchises upon such revocation.

§62. List of shareholders

The president and cashier of every national banking association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted. Such list shall be

subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under State authority, during business hours of each day in which business may be legally transacted. A copy of such list, verified by the oath of such president or cashier, shall be transmitted to the Comptroller of the Currency within ten days of any demand therefor made by him.

(R.S. §5210; May 18, 1953, ch. 59, §1, 67 Stat. 27.)

EDITORIAL NOTES

CODIFICATION

R.S. §5210 derived from act June 3, 1864, ch. 106, §40, 13 Stat. 111, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1953—Act May 18, 1953, changed the requirement for annual transmission of a copy of the shareholders list to the Comptroller of the Currency by authorizing the Comptroller to acquire such copy at any time on 10 days' notice.

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

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.

§§63, 64. Repealed. Pub. L. 86–230, §7, Sept. 8, 1959, 73 Stat. 457

Section 63, R.S. §5151, related to individual liability of shareholders.

Section 64, act Dec. 23, 1913, ch. 6, §23, 38 Stat. 273, related to transfer of shares as affecting individual liability of shareholders. Limitation on liability of shareholders, see section 64a of this title.

The status of former section 63 of this title had been doubtful. At different times it had been held to have been repealed, superseded, and superseded only in part by former section 64 of this title which related to the same subject. See *American T. Co. v. Grut*, C.C.A. 1935, 80 F.2d 155; *Miller v. Hamner*, C.C.A. 1920, 269 F. 891; and *First Nat. Bank v. First Nat. Bank*, D.C. 1926, 14 F.2d 129.

§64a. Individual liability of shareholders; limitation on liability

The additional liability imposed upon shareholders in national banking associations by the provisions of sections 63 and 64 of this title shall not apply with respect to shares in any such association issued after June 16, 1933. Such additional liability shall cease on July 1, 1937, with respect to all shares issued by any association which shall be transacting the business of banking on July 1, 1937: *Provided*, That not less than six months prior to such date, such association shall have caused notice of such prospective termination of liability to be published in a newspaper published in the city, town, or county in which such association is located, and if no newspaper is published in such city, town, or county, then in a newspaper of general circulation therein. If the association fail ¹ to give such notice as and when above provided, a termination of such additional liability may thereafter be accomplished as of the date six month ² subsequent to publication, in the manner above provided. In the case of each association which has not caused notice of such prospective termination

of liability to be published prior to May 18, 1953, the Comptroller of the Currency shall cause such notice to be published in the manner provided in this section, and on the date six months subsequent to such publication by the Comptroller of the Currency such additional liability shall cease.

(June 16, 1933, ch. 89, §22, 48 Stat. 189; Aug. 23, 1935, ch. 614, title III, §304, 49 Stat. 708; May 18, 1953, ch. 59, §2, 67 Stat. 27.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 63 and 64 of this title, referred to in text, were repealed by Pub. L. 86–230, §7, Sept. 8, 1959, 73 Stat. 457.

AMENDMENTS

1953—Act May 18, 1953, provided for termination of the additional liability, referred to in the section, by action of the Comptroller of the Currency with regard to those associations which had not, prior to May 18, 1953, caused notice of termination to be published.

1935—Act Aug. 23, 1935, added second and third sentences.

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.

¹ *So in original. Probably should be "fails".*

² *So in original. Probably should be "months".*

§65. Repealed. Pub. L. 86–230, §8, Sept. 8, 1959, 73 Stat. 457

Section, acts June 30, 1876, ch. 156, §2, 19 Stat. 63; Sept. 3, 1954, ch. 1263, §22, 68 Stat. 1234, related to enforcement of shareholders' individual liability by creditors on liquidation. Limitation on liability of shareholders, see section 64a of this title.

§66. Personal liability of representatives of stockholders

Persons holding stock as executors, administrators, guardians, or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be, if living and competent to act and hold the stock in his own name.

(R.S. §5152.)

EDITORIAL NOTES

CODIFICATION

R.S. §5152 derived from act June 3, 1864, ch. 106, §63, 13 Stat. 118, which was the National Bank Act. See section 38 of this title.

§67. Individual liability of shareholders; compromises; authority of receiver

Any receiver of a national banking association is authorized, with the approval of the Comptroller of the Currency and upon the order of a court of record of competent jurisdiction, to compromise,

either before or after judgment, the individual liability of any shareholder of such association. (Feb. 25, 1930, ch. 58, 46 Stat. 74.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

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 to Secretary of the Treasury, see note set out under section 1 of this title.

SUBCHAPTER III—DIRECTORS

§71. Election

The affairs of each association shall be managed by not less than five directors, who shall be elected by the shareholders at a meeting to be held at any time before the association is authorized by the Comptroller of the Currency to commence the business of banking; and afterward at meetings to be held on such day of each year as is specified therefor in the bylaws. The directors shall hold office for a period of not more than 3 years, and until their successors are elected and have qualified. In accordance with regulations issued by the Comptroller of the Currency, a national bank may adopt bylaws that provide for staggering the terms of its directors.

(R.S. §5145; Pub. L. 88–232, §1, Dec. 23, 1963, 77 Stat. 472; Pub. L. 106–569, title XII, §1205(a), Dec. 27, 2000, 114 Stat. 3033.)

EDITORIAL NOTES

CODIFICATION

R.S. §5145 derived from act June 3, 1864, ch. 106, §§9, 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2000—Pub. L. 106–569 substituted "for a period of not more than 3 years" for "for one year" and inserted at end "In accordance with regulations issued by the Comptroller of the Currency, a national bank may adopt bylaws that provide for staggering the terms of its directors."

1963—Pub. L. 88–232 substituted "on such day of each year as is specified therefor in the bylaws" for "on such day in January of each year as is specified therefor in the articles of association".

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.

§71a. Number of directors; penalties

After one year from June 16, 1933, notwithstanding any other provision of law, the board of directors, board of trustees, or other similar governing body of every national banking association and of every State bank or trust company which is a member of the Federal Reserve System shall consist of not less than five nor more than twenty-five members, except that the Comptroller of the Currency may, by regulation or order, exempt a national bank from the 25-member limit established by this section. If any national banking association violates the provisions of this section and continues such violation after thirty days' notice from the Comptroller of the Currency, the said Comptroller may appoint a receiver or conservator therefor, in accordance with the provisions of existing law. If any State bank or trust company which is a member of the Federal Reserve System violates the provisions of this section and continues such violation after thirty days' notice from the Board of Governors of the Federal Reserve System, it shall be subject to the forfeiture of its membership in the Federal Reserve System in accordance with the provisions of section 327 of this title.

(June 16, 1933, ch. 89, §31, 48 Stat. 194; June 16, 1934, ch. 546, §4, 48 Stat. 971; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §306, 49 Stat. 704, 708; Pub. L. 106-569, title XII, §1205(b), Dec. 27, 2000, 114 Stat. 3034.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106-569 inserted before period at end of first sentence ", except that the Comptroller of the Currency may, by regulation or order, exempt a national bank from the 25-member limit established by this section".

1935—Act June 16, 1934, as amended by act Aug. 23, 1935, §306, repealed a former provision of this section relating to stock ownership requirements of directors, trustees, or members of similar governing bodies of any national banking association, or of any State bank or trust company which is a member of the Federal Reserve System.

1934—Act June 16, 1934, repealed a former provision of this section relating to stock ownership requirements of directors, trustees, or members of similar governing bodies of member banks of the Federal Reserve System.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Act Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704, 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.

§72. Qualifications

Every director must, during his whole term of service, be a citizen of the United States, and at least a majority of the directors must have resided in the State, Territory, or District in which the association is located, or within one hundred miles of the location of the office of the association, for at least one year immediately preceding their election, and must be residents of such State or within one-hundred-mile territory of the location of the association during their continuance in office, except that the Comptroller may, in the discretion of the Comptroller, waive the requirement of residency, and waive the requirement of citizenship in the case of not more than a minority of the total number of directors. Every director must own in his or her own right either shares of the capital

stock of the association of which he or she is a director the aggregate par value of which is not less than \$1,000, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 1841 of this title. If the capital of the bank does not exceed \$25,000, every director must own in his or her own right either shares of such capital stock the aggregate par value of which is not less than \$500, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 1841 of this title. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

(R.S. §5146; Feb. 28, 1905, ch. 1163, 33 Stat. 818; Mar. 1, 1921, ch. 100, 41 Stat. 1199; Feb. 25, 1927, ch. 191, §17, 44 Stat. 1233; Apr. 27, 1956, ch. 215, 70 Stat. 119; Pub. L. 95-369, §2, Sept. 17, 1978, 92 Stat. 608; Pub. L. 96-221, title VII, §710, Mar. 31, 1980, 94 Stat. 189; Pub. L. 103-325, title III, §313, Sept. 23, 1994, 108 Stat. 2221; Pub. L. 104-208, div. A, title II, §2241, Sept. 30, 1996, 110 Stat. 3009-418; Pub. L. 106-569, title XII, §1233(a), Dec. 27, 2000, 114 Stat. 3037.)

EDITORIAL NOTES

CODIFICATION

R.S. §5146 derived from act June 3, 1864, ch. 106, §§9, 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2000—Pub. L. 106-569 inserted before period at end of first sentence ", and waive the requirement of citizenship in the case of not more than a minority of the total number of directors".

1996—Pub. L. 104-208 substituted "except that the Comptroller may, in the discretion of the Comptroller, waive the requirement of residency" for "except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors" before period at end of first sentence.

1994—Pub. L. 103-325, which directed the substitution of "a majority" for "two thirds", was executed by making the substitution for "two-thirds" in first sentence to reflect the probable intent of Congress.

1980—Pub. L. 96-221 inserted provisions setting forth additional ownership requirements with respect to equivalent interest determinations by the Comptroller of the Currency.

1978—Pub. L. 95-369 authorized the Comptroller of the Currency, in case of associations which are subsidiaries of affiliates of foreign banks, to waive citizenship requirements of not more than a minority of the total number of directors.

1956—Act Apr. 27, 1956, substituted "two-thirds", "one hundred", "one-hundred-mile", for "three-fourths", "fifty", and "fifty-mile", respectively.

1927—Act Feb. 25, 1927, substituted a minimum value of stock ownership for minimum number of shares in both instances.

§73. Oath

Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate or willingly permit to be violated any of the provisions of title 62 of the Revised Statutes, and that he is the owner in good faith, and in his own right, of the number of shares of stock required by title 62 of the Revised Statutes, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan or debt. The oath shall be taken before a notary public, properly authorized and commissioned by the State in which he resides, or before any other officer having an official seal and authorized by the State to administer oaths, except that the oath shall not be taken before any such notary public or other officer who is an officer of the director's bank. The oath, subscribed by the director making it, and certified by the notary public or other officer before whom it is taken, shall be immediately

transmitted to the Comptroller of the Currency and shall be filed and preserved in his office for a period of ten years.

(R.S. §5147; Feb. 20, 1925, ch. 274, 43 Stat. 955.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72, 74 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5147 derived from act June 3, 1864, ch. 106, §9, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

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.

§74. Vacancies

Any vacancy in the board shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election.

(R.S. §5148.)

EDITORIAL NOTES

CODIFICATION

R.S. §5148 derived from act June 3, 1864, ch. 106, §10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

§75. Legal holiday, annual meeting on; proceedings where no election held on proper day

When the day fixed in the bylaws for the regular annual meeting of the shareholders falls on a legal holiday in the State in which the bank is located, the shareholders meeting shall be held, and the directors elected, on the next following banking day. If, from any cause, an election of directors is not made on the day fixed, or in the event of a legal holiday, on the next following banking day, an election may be held on any subsequent day within sixty days of the day fixed, to be designated by the board of directors, or, if the directors fail to fix the day, by shareholders representing two-thirds of the shares, at least ten days' notice thereof in all cases having been given by first-class mail to the shareholders.

(R.S. §5149; Pub. L. 86-230, §9, Sept. 8, 1959, 73 Stat. 457; Pub. L. 88-232, §2, Dec. 23, 1963, 77 Stat. 472.)

EDITORIAL NOTES

CODIFICATION

R.S. §5149 derived from act June 3, 1864, ch. 106, §10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1963—Pub. L. 88–232 substituted "bylaws" for "articles of association".

1959—Pub. L. 86–230 provided that when the day fixed for the regular annual meeting of the shareholders falls on a legal holiday, the meeting shall be held on the next following banking day and authorized election of directors to be held within sixty days of a fixed day upon ten days' notice to the shareholders by first-class mail instead of upon thirty days' notice in newspaper and at a date designated in the articles or bylaws or by the shareholders.

§76. President of bank as member of board; chairman of board

The president of the bank shall be a member of the board and shall be the chairman thereof, but the board may designate a director in lieu of the president to be chairman of the board, who shall perform such duties as may be designated by the board.

(R.S. §5150; Feb. 25, 1927, ch. 191, §6, 44 Stat. 1228.)

EDITORIAL NOTES

CODIFICATION

R.S. §5150 derived from act June 3, 1864, ch. 106, §9, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1927—Act Feb. 25, 1927, amended section generally. Prior to amendment, section read as follows: "One of the directors, to be chosen by the board, shall be president of the board."

§77. Repealed. Pub. L. 89–695, title II, §207, Oct. 16, 1966, 80 Stat. 1055

Section, act June 16, 1933, ch. 89, §30, 48 Stat. 193, provided authority for removal of directors or officers of national banks, District banks, or State member banks for continued violations of law or for continued unsafe or unsound practices in conducting the business of such banks.

EDITORIAL NOTES

CODIFICATION

Section 401 of Pub. L. 89–695, Oct. 16, 1966, 80 Stat. 1056, which provided for reenactment of this section effective upon expiration of the period ending at the close of June 30, 1972, was repealed by Pub. L. 91–609, title IX, §908, Dec. 31, 1970, 84 Stat. 1811.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONDITIONS GOVERNING EMPLOYMENT OF PERSONNEL NOT REPEALED, MODIFIED, OR AFFECTED

Nothing contained in section 207 of Pub. L. 89–695 repealing this section to be construed as repealing, modifying, or affecting section 1829 of this title, see section 206 of Pub. L. 89–695, set out as a note under section 1813 of this title.

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

Section, acts June 16, 1933, ch. 89, §32, 48 Stat. 194; Aug. 23, 1935, ch. 614, §307, 49 Stat. 709, related to

certain persons excluded from serving as officers, directors, or employees of member banks.

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.

SUBCHAPTER IV—REGULATION OF THE BANKING BUSINESS; POWERS AND DUTIES OF NATIONAL BANKS

§81. Place of business

The general business of each national banking association shall be transacted in the place specified in its organization certificate and in the branch or branches, if any, established or maintained by it in accordance with the provisions of section 36 of this title.

(R.S. §5190; Feb. 25, 1927, ch. 191, §8, 44 Stat. 1229.)

EDITORIAL NOTES

CODIFICATION

R.S. §5190 derived from act June 3, 1864, ch. 106, §8, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1927—Act Feb. 25, 1927, among other changes, inserted "and in the branch or branches, if any, established or maintained by it in accordance with the provisions of section 36 of this title".

§82. Repealed. Pub. L. 97–320, title IV, §402, Oct. 15, 1982, 96 Stat. 1510

Section, R.S. §5202; Dec. 23, 1913, ch. 6, §13 (par.), 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 753; Apr. 5, 1918, ch. 45, §20, 40 Stat. 512; Oct. 22, 1919, ch. 79, §2, 41 Stat. 297; Mar. 4, 1923, ch. 252, title V, §504, 42 Stat. 1481; Feb. 25, 1927, ch. 191, §11, 44 Stat. 1231; Jan. 22, 1932, ch. 8, §5, formerly §6, 47 Stat. 8, renumbered and amended June 30, 1947, ch. 166, title I, §1, 61 Stat. 202; May 20, 1933, ch. 35, §2, 48 Stat. 73; June 19, 1934, ch. 653, §2, 48 Stat. 1107; Sept. 8, 1959, Pub. L. 86–230, §10, 73 Stat. 458; Sept. 9, 1959, Pub. L. 86–251, §2, 73 Stat. 488; July 24, 1970, Pub. L. 91–351, title II, §201(b), 84 Stat. 451; Jan. 4, 1975, Pub. L. 93–646, §11, 88 Stat. 2337, provided that no national banking association could at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, plus 50 percent of the amount of its unimpaired surplus fund, except on account of demands of the nature following: notes of circulation; moneys deposited with or collected by the association; bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto; liabilities to the stockholders of the association for dividends and reserve profits; liabilities incurred under the provisions of the Federal Reserve Act; liabilities incurred under the provisions of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]; liabilities created by the indorsement of accepted bills of exchange payable abroad actually owned by the indorsing bank and discounted at home or abroad; liabilities incurred under the provisions of sections 1031 to 1033 of this title; liabilities incurred on account of loans made with the express approval of the Comptroller of the Currency under former section 84(9) of this title; liabilities incurred under the provisions of section 352a of this title; liabilities incurred in connection with sales of mortgages, or participations therein, to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and liabilities incurred in borrowing from the Export-Import Bank of the United States.

§83. Loans by bank on its own stock

(a) General prohibition

No national bank shall make any loan or discount on the security of the shares of its own capital stock.

(b) Exclusion

For purposes of this section, a national bank shall not be deemed to be making a loan or discount on the security of the shares of its own capital stock if it acquires the stock to prevent loss upon a debt previously contracted for in good faith.

(R.S. §5201; Pub. L. 106–569, title XII, §1207(a), Dec. 27, 2000, 114 Stat. 3034.)

EDITORIAL NOTES

CODIFICATION

R.S. §5201 derived from act June 3, 1864, ch. 106, §35, 13 Stat. 110, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2000—Pub. L. 106–569 amended section catchline and text generally. Prior to amendment, text read as follows: "No association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale; or, in default thereof, a receiver may be appointed to close up the business of the association, according to section 192 of this title."

§84. Lending limits

(a) Total loans and extensions of credit

(1) The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

(2) The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

(b) Definitions

For the purposes of this section—

(1) the term "loans and extensions of credit" shall include—

(A) all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person;

(B) to the extent specified by the Comptroller of the Currency, any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

(C) any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the national banking association and the person;

(2) the term "person" shall include an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization; and

(3) the term "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

(c) Exceptions

The limitations contained in subsection (a) shall be subject to the following exceptions:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

(2) The purchase of bankers' acceptances of the kind described in section 372 of this title and issued by other banks shall not be subject to any limitation based on capital and surplus.

(3) Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 per centum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States shall not be subject to any limitation based on capital and surplus.

(6) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

(7) Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

(8)(A) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25 per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a)(2).

(B) If the bank's files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

(9)(A) Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a maximum limitation equal to 25 per centum of such capital and surplus.

(B) Loans and extensions of credit which arise from the discount by dealers in dairy cattle of

paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a limitation of 25 per centum of such capital and surplus.

(10) Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

(d) Authority of Comptroller of the Currency

(1) The Comptroller of the Currency may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit.

(2) The Comptroller of the Currency also shall have authority to determine when a loan putatively made to a person shall for purposes of this section be attributed to another person.

(R.S. §5200; June 22, 1906, ch. 3516, 34 Stat. 451; Sept. 24, 1918, ch. 176, §6, 40 Stat. 967; Oct. 22, 1919, ch. 79, §1, 41 Stat. 296; Feb. 25, 1927, ch. 191, §10, 44 Stat. 1229; May 20, 1933, ch. 35, §1, 48 Stat. 73; June 16, 1933, ch. 89, §26(a), 48 Stat. 191; Aug. 23, 1935, ch. 614, title III, §321(b), 49 Stat. 713; June 11, 1942, ch. 404, §8, 56 Stat. 356; July 15, 1949, ch. 338, title VI, §602(b), 63 Stat. 440; July 22, 1937, ch. 517, §15(a), as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1079; amended Pub. L. 85-748, §1(c), Aug. 25, 1958, 72 Stat. 841; Pub. L. 86-251, §3, Sept. 9, 1959, 73 Stat. 488; Pub. L. 87-723, §4(c)(4), Sept. 28, 1962, 76 Stat. 672; Pub. L. 90-19, §27(b), May 25, 1967, 81 Stat. 29; Pub. L. 92-318, title I, §133(c)(2), June 23, 1972, 86 Stat. 270; Pub. L. 97-320, title IV, §401(a), Oct. 15, 1982, 96 Stat. 1508; Pub. L. 97-457, §17(a), Jan. 12, 1983, 96 Stat. 2509; Pub. L. 111-203, title VI, §610(a), July 21, 2010, 124 Stat. 1611; Pub. L. 116-136, div. A, title IV, §4011(a), Mar. 27, 2020, 134 Stat. 478.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 372 of this title, referred to in subsec. (c)(2), was in the original a reference to "section 13 of the Federal Reserve Act". Provisions of section 13 describing bankers' acceptances are classified to section 372 of this title. Other provisions of section 13 are classified to sections 342 to 347, 347c, 347d of this title.

CODIFICATION

R.S. §5200 derived from act June 3, 1864, ch. 106, §29, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2020—Subsec. (c)(7). Pub. L. 116-136, §4011(a)(1), temporarily inserted "any nonbank financial company (as that term is defined in section 5311 of this title)," after "Loans or extensions of credit to" and temporarily substituted "financial institution, or to" for "financial institution or to".

Subsec. (d)(1). Pub. L. 116-136, §4011(a)(2), temporarily inserted at end "The Comptroller of the Currency may, by order, exempt any transaction or series of transactions from the requirements of this section upon a finding by the Comptroller that such exemption is in the public interest and consistent with the purposes of this section."

2010—Subsec. (b)(1). Pub. L. 111-203, §610(a)(1), substituted "shall include—" for "shall include all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person and, to the extent specified by the Comptroller of the Currency, such term shall also include any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and" and added subpars. (A) to (C).

Subsec. (b)(3). Pub. L. 111-203, §610(a)(2), (3), added par. (3).

1983—Subsec. (b)(1). Pub. L. 97-457 inserted a comma before "to the extent specified by the Comptroller of the Currency".

1982—Pub. L. 97-320 amended section generally. Prior to amendment, section read as follows: "The total obligations to any national banking association of any person, copartnership, association, or corporation shall

at no time exceed 10 per centum of the amount of the capital stock of such association actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. The term 'obligations' shall mean the direct liability of the maker or acceptor of paper discounted with or sold to such association and the liability of the indorser, drawer, or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such association and shall include in the case of obligations of a copartnership or association the obligations of the several members thereof and shall include in the case of obligations of a corporation all obligations of all subsidiaries thereof in which such corporation owns or controls a majority interest. Such limitation of 10 per centum shall be subject to the following exceptions:

"(1) Obligations in the form of drafts or bills of exchange drawn in good faith against actually existing values shall not be subject under this section to any limitation based upon such capital and surplus.

"(2) Obligations arising out of the discount of commercial or business paper actually owned by the person, copartnership, association, or corporation negotiating the same shall not be subject under this section to any limitation based upon such capital and surplus.

"(3) Obligations drawn in good faith against actually existing values and secured by goods or commodities in process of shipment shall not be subject under this section to any limitation based upon such capital and surplus.

"(4) Obligations as indorser or guarantor of notes, other than commercial or business paper excepted under paragraph (2) of this section, having a maturity of not more than six months, and owned by the person, corporation, association, or copartnership indorsing and negotiating the same, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

"(5) Obligations in the form of banker's acceptances of other banks of the kind described in section 372 of this title shall not be subject under this section to any limitation based upon such capital and surplus.

"(6) Obligations of any person, copartnership, association or corporation, in the form of notes or drafts secured by shipping documents, warehouse receipts or other such documents transferring or securing title covering readily marketable nonperishable staples when such property is fully covered by insurance, if it is customary to insure such staples, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus when the market value of such staples securing such obligation is not at any time less than 115 per centum of the face amount of such obligation, and to an additional increase of limitation of 5 per centum of such capital and surplus in addition to such 25 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 120 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 30 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 125 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 35 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 130 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 40 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 135 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 45 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 140 per centum of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, copartnership, association, or corporation arising from the same transactions and/or secured by the identical staples for more than ten months. Obligations of any person, copartnership, association, or corporation in the form of notes or drafts secured by shipping documents, warehouse receipts, or other such documents transferring or securing title covering refrigerated or frozen readily marketable staples when such property is fully covered by insurance, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus when the market value of such staples securing such obligation is not at any time less than 115 per centum of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, copartnership, association or corporation arising from the same transactions and/or secured by the identical staples for more than six months.

"(7) Obligations of any person, copartnership, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the notes covered by such documents shall be subject under this

section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus. Obligations arising out of the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which bear a full recourse endorsement or unconditional guarantee of the seller and are secured by the cattle being sold, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

"(8) Obligations of any person, copartnership, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, shall (except to the extent permitted by rules and regulations prescribed by the Comptroller of the Currency, with the approval of the Secretary of the Treasury) be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

"(9) Obligations representing loans to any national banking association or to any banking institution organized under the laws of any State, or to any receiver, conservator, or superintendent of banks, or to any other agent, in charge of the business and property of any such association or banking institution, when such loans are approved by the Comptroller of the Currency, shall not be subject under this section to any limitation based upon such capital and surplus.

"(10) Obligations shall not be subject under this section to any limitation based upon such capital and surplus to the extent that such obligations are secured or covered by guaranties, or by commitments or agreements to take over or to purchase, made by any Federal Reserve bank or by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States: *Provided*, That such guaranties, agreements, or commitments are unconditional and must be performed by payment of cash or its equivalent within sixty days after demand. The Comptroller of the Currency is authorized to define the terms herein used if and when he may deem it necessary.

"(11) Obligations of a local public agency (as defined in section 110(h) of the Housing Act of 1949 [42 U.S.C. 1460(h)]) or of a public housing agency (as defined in the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]) which have a maturity of not more than eighteen months shall not be subject under this section to any limitation, if such obligations are secured by an agreement between the obligor agency and the Secretary of Housing and Urban Development in which the agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the agency, prior to the maturity of such obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity, which monies under the terms of said agreement are required to be used for that purpose.

"(12) Obligations insured by the Secretary of Agriculture pursuant to the Bankhead-Jones Farm Tenant Act, as amended [7 U.S.C. 1000 et seq.], or the Act of August 28, 1937, as amended (relating to the conservation of water resources), or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

"(13) Obligations as endorser or guarantor of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person, copartnership, association, or corporation transferring the same, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus: *Provided, however*, That if the bank's files or the knowledge of its officers of the financial condition of each maker of such obligations is reasonably adequate, and upon certification by an officer of the bank designated for that purpose by the board of directors of the bank, that the responsibility of each maker of such obligations has been evaluated and the bank is relying primarily upon each such maker for the payment of such obligations, the limitations of this section as to the obligations of each such maker shall be the sole applicable loan limitation: *Provided further*, That such certification shall be in writing and shall be retained as part of the records of such bank.

"(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus."

1972—Par. (14). Pub. L. 92-318 added par. (14).

1967—Par. (11). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator or the Public Housing Administration" and "Secretary" for "Administrator or Administration" wherever appearing, respectively.

1962—Par. (12). Pub. L. 87-723 inserted "or title V of the Housing Act of 1949" before "shall be subject under this section".

1959—Par. (6). Pub. L. 86–251, §3(a), substituted "secured by" for "secured upon" and inserted exception with respect to obligations secured by documents transferring or securing title covering refrigerated or frozen readily marketable staples.

Par. (7). Pub. L. 86–251, §3(b), inserted exception with respect to obligations arising out of the discount by dealers in dairy cattle of paper given in payment for dairy cattle.

Par. (8). Pub. L. 86–251, §3(c), struck out "in the form of notes" after "corporation".

Par. (13). Pub. L. 86–251, §3(d), added par. (13).

1958—Par. (12). Pub. L. 85–748 amended section 15(a) of act July 22, 1937, as added by act Aug. 14, 1946, by inserting sentence amending R.S. §5200 by adding par. (12).

1949—Par. (11). Act July 15, 1949, added par. (11).

1942—Par. (10). Act June 11, 1942, added par. (10).

1935—Par. (8). Act Aug. 23, 1935, inserted "Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States".

1933—Par. (1). Act June 16, 1933, inserted provision relating to obligations of a corporation and its subsidiaries in second sentence.

Par. (9). Act May 20, 1933, added par. (9).

1927—Act Feb. 25, 1927, reenacted section, subdividing it into eight numbered exceptions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE AND TERMINATION DATES OF 2020 AMENDMENT

Pub. L. 116–136, div. A, title IV, §4011(b), Mar. 27, 2020, 134 Stat. 479, provided that: "This section, and the amendments made by this section [amending this section], shall be effective during the period beginning on the date of enactment of this Act [Mar. 27, 2020] and ending on the sooner of—

"(1) the termination date of the national emergency concerning the novel coronavirus disease (COVID–19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.); or

"(2) December 31, 2020."

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title VI, §610(c), July 21, 2010, 124 Stat. 1612, provided that: "The amendments made by this section [amending this section and section 1464 of this title] shall take effect 1 year after the transfer date."

[For definition of "transfer date" as used in section 610(c) of Pub. L. 111–203, set out above, see section 5301 of this title.]

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–320, title IV, §401(b), Oct. 15, 1982, 96 Stat. 1510, provided that: "This section [amending this section] 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 amendment to this section enacted by act July 22, 1937, §15(a), as added Aug. 14, 1946, see section 341(a) of Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 318, set out as a note under section 1921 of Title 7, Agriculture.

SAVINGS PROVISION

Act June 16, 1933, ch. 89, §26(b), 48 Stat. 191, provided: "The amendment made by this section [amending this section] shall not apply to such obligations of subsidiaries held by such association on the date this section takes effect."

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §3, 47 Stat. 1567.

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.

§85. Rate of interest on loans, discounts and purchases

Any association may take, receive, reserve, and charge on any loan or discount made, or upon any notes, bills of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State, Territory, or District where the bank is located, or at a rate of 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank is located, whichever may be the greater, and no more, except that where by the laws of any State a different rate is limited for banks organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under title 62 of the Revised Statutes. When no rate is fixed by the laws of the State, or Territory, or District, the bank may take, receive, reserve, or charge a rate not exceeding 7 per centum, or 1 per centum in excess of the discount rate on ninety day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank is located, whichever may be the greater, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run. The maximum amount of interest or discount to be charged at a branch of an association located outside of the States of the United States and the District of Columbia shall be at the rate allowed by the laws of the country, territory, dependency, province, dominion, insular possession, or other political subdivision where the branch is located. And the purchase, discount, or sale of a bona fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

(R.S. §5197; June 16, 1933, ch. 89, §25, 48 Stat. 191; Aug. 23, 1935, ch. 614, title III, §314, 49 Stat. 711; Pub. L. 93-501, title II, §201, Oct. 29, 1974, 88 Stat. 1558; Pub. L. 96-104, title I, §101, Nov. 5, 1979, 93 Stat. 789; Pub. L. 96-161, title II, §201, Dec. 28, 1979, 93 Stat. 1235; Pub. L. 96-221, title V, §529, Mar. 31, 1980, 94 Stat. 168.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83, 84, 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5197 derived from act June 3, 1864, ch. 106, §30, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

Section 201 of Pub. L. 96-161, cited as a credit to this section, was repealed by section 529 of Pub. L. 96-221, effective at the close of Mar. 31, 1980. The amendment of this section by that repealed provision, described in the 1979 Amendments note below, shall continue in effect for limited purposes pursuant to section 529. See Savings Provisions note, describing the provisions of section 529 of Pub. L. 96-221, set out below.

Section 101 of Pub. L. 96-104, cited as a credit to this section, was repealed by section 212 of Pub. L. 96-161, effective at the close of Dec. 27, 1979. The amendment of this section by that repealed provision, described in the 1979 Amendments note below, shall continue in effect for limited purposes pursuant to section 212 of Pub. L. 96-161. See Savings Provisions note, describing the provisions of section 212 of Pub. L. 96-161, set out below. The amendment by Pub. L. 96-104, §101, was duplicated with identical language in the amendment made by Pub. L. 96-161, §201. See 1979 Amendments note below.

Section 201 of Pub. L. 93-501, cited as a credit to this section, was repealed by Pub. L. 96-104, §1, Nov. 5, 1979, 93 Stat. 789. The amendment of this section by that repealed provision, described in the 1974 Amendment note set out under this section, was duplicated in 1979 with identical language under section 101 of Pub. L. 96-104. See 1979 Amendments note below.

AMENDMENTS

1980—Pub. L. 96-221 repealed Pub. L. 96-104 and title II of Pub. L. 96-161, resulting in the striking out of "or in the case of business or agricultural loans in the amount of \$25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located," before "whichever may be the greater" in two places. See Codification and 1979 Amendment notes under this section.

1979—Pub. L. 96-161 inserted provisions relating to a 5 per centum interest rate on business or agricultural loans in the amount of \$25,000 or more that were identical to provisions inserted earlier by Pub. L. 96-104. See Codification note above.

Pub. L. 96-104 substituted "or in the case of business or agricultural loans in the amount of \$25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater" for "whichever may be the greater" in two places. See Codification note above.

1974—Pub. L. 93-501 substituted "or in the case of business or agricultural loans in the amount of \$25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater" for "whichever may be the greater" in two places.

1935—Act Aug. 23, 1935, inserted third sentence.

1933—Act June 16, 1933, authorized interest at the alternative rate of 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve bank in the Federal reserve district where the bank is located if greater.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-221, title V, §529, Mar. 31, 1980, 94 Stat. 168, provided that the amendment made by that section is effective at the close of Mar. 31, 1980.

EFFECTIVE DATE OF 1979 AMENDMENTS

Pub. L. 96-161, title II, §207, Dec. 28, 1979, 93 Stat. 1238, which provided that amendment by Pub. L. 96-161 was applicable to loans made in any State during the period beginning on Dec. 28, 1979, and ending on the earliest of (1) in the case of a State statute, July 1, 1980; (2) the date, after Dec. 28, 1979, on which such State adopts a law stating in substance that such State does not want the amendment of this section made by Pub. L. 96-161 to apply with respect to loans made in such State; or (3) the date on which such State certifies that the voters of such State, after 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 prohibits the charging of interest at the rates provided in the amendment of this section by Pub. L. 96-161, was repealed by Pub. L. 96-221, title V, §529, Mar. 31, 1980, 94 Stat. 168.

Pub. L. 96-104, title I, §107, Nov. 5, 1979, 93 Stat. 792, which provided that amendment by Pub. L. 96-104 was applicable to loans made by any State during the period beginning on Nov. 5, 1979, and ending on the earlier of July 1, 1981, or the date after Nov. 5, 1979, on which such State adopts a law stating in substance that such State does not want the amendment of this section to apply with respect to loans made in such State, or the date on which such State certifies that the voters of such State have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment of the constitution of such State, which prohibits the charging of interest at the rates provided in the amendment of this section, was repealed by Pub. L. 96-161, title II, §212, Dec. 28, 1979, 93 Stat. 1239.

EFFECTIVE AND TERMINATION DATES OF 1974 AMENDMENT

Pub. L. 93-501, title II, §206, Oct. 29, 1974, 88 Stat. 1560, which provided that amendment by Pub. L. 93-501 applicable to loans made in any state after Oct. 29, 1974, but prior to the earlier of July 1, 1977, or the date (after Oct. 29, 1974) of enactment by the state of a law prohibiting the charging of interest at the rates provided in the amendment of this section, was repealed by Pub. L. 96-104, §1, Nov. 5, 1979, 93 Stat. 789.

SAVINGS PROVISIONS

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, the provisions added to this section by those repealed laws shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when those provisions were in effect in such State.

Pub. L. 96–161, title II, §212, Dec. 28, 1979, 93 Stat. 1239, provided in part that, notwithstanding the repeal, effective at the close of Dec. 27, 1979, of Pub. L. 96–104 [which had enacted sections 86a, 371b–1, 1730e, and 1831a of this title, amended sections 85, 1425b, and 1828 of this title and section 687 of Title 15, Commerce and Trade, repealed sections 371b–1, 1730e, and 1831a of this title and notes set out under sections 371b–1 and 1831a of this title, and enacted provisions set out as notes under this section and sections 86a, 371b–1, and 1831a of this title], the amendment which had been made by title I of Pub. L. 96–104 and the provisions of that title would continue to apply to any loan made in any State on or after Nov. 5, 1979, but prior to the repeal of Pub. L. 96–104, and that the amendments made by title II of Pub. L. 96–104 would continue to apply to any deposit made or obligation issued in any State on or after Nov. 5, 1979, but prior to the repeal of Pub. L. 96–104.

Pub. L. 96–104, §1, Nov. 5, 1979, 93 Stat. 789, provided in part that, notwithstanding the repeal of titles II and III of Pub. L. 93–501 [which had enacted sections 371b–1, 1730e, and 1831a of this title, amended sections 85, 1425b, and 1828 of this title, and section 687 of Title 15, Commerce and Trade, and enacted provisions set out as notes under sections 371b–1 and 1831a of this title], the amendments which had been made by title II of that Act and the provisions of such title would continue to apply to any loan made in any State during the period specified in section 206 of such Act [set out as a note under section 1831a of this title] and that the amendments which had been made by title III of such Act would continue to apply to any deposit made or obligation issued in any State during the period specified in section 304 of such Act [set out as a note under section 371b–1 of this title].

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

In any case in which one or more provisions of, or amendments made by, title V of Pub. L. 96–221 [enacting sections 86a, 1730g, 1735f–7a, 1785(g), and 1831d of this title and section 687(i) of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, and 1735f–7 of this title], section 1735f–7 of this title, or any other provisions of law, including this section, apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate, see section 528 of Pub. L. 96–221, set out as a note under section 1735f–7a of 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 amended this section, repealed provisions which had formerly amended this section, and enacted provisions set out as notes under this section, to continue to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

§86. Usurious interest; penalty for taking; limitations

The taking, receiving, reserving, or charging a rate of interest greater than is allowed by section 85 of this title, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same: *Provided*, That such action is commenced within two years from the time the usurious transaction occurred.

(R.S. §5198.)

EDITORIAL NOTES

CODIFICATION

R.S. §5198 (less last sentence) derived from act June 3, 1864, ch. 106, §30, 13 Stat. 108, which was the

National Bank Act. See section 38 of this title.

Section is based on R.S. §5198, less last sentence as added by act Feb. 18, 1875, ch. 80, §1, 18 Stat. 320, which is classified to section 94 of this title.

§86a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 96–221, title V, §511, Mar. 31, 1980, 94 Stat. 164; Pub. L. 96–399, title III, §324(b), (d), Oct. 8, 1980, 94 Stat. 1648, which authorized interest on business or agricultural loans of \$1,000 or more at a rate of not more than 5 per centum in excess of the discount rate, was omitted pursuant to section 512 of Pub. L. 96–221 which made these provisions applicable only with respect to such loans made in any State during the period beginning on April 1, 1980, and ending on the earlier of (1) April 1, 1983, or (2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly that such State does not want these provisions to apply with respect to loans made in such State.

A prior section 86a, Pub. L. 96–161, title II, §205, Dec. 28, 1979, 93 Stat. 1237, similar to this section as enacted by Pub. L. 96–221, was repealed by section 529 of Pub. L. 96–221, effective at the close of Mar. 31, 1980, except that its provisions would continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when that section was in effect in such State. For the effective date provisions relating to the prior section 86a, see section 207 of Pub. L. 96–161.

Another prior section 86a, Pub. L. 96–104, title I, §105, Nov. 5, 1979, 93 Stat. 791, identical to this section as enacted 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 loans made in any State on or after Nov. 5, 1979, but prior to such repeal.

Section 301 of Pub. L. 96–104, which limited the applicability of Pub. L. 96–104 to those States having a constitutional provision that all contracts for a greater rate of interest than 10 per centum per annum are void as to both principal and interest, was repealed by section 212 of Pub. L. 96–161, effective at the close of Dec. 27, 1979.

§§87 to 89. Repealed. Pub. L. 103–325, title VI, §602(e)(2)–(4), Sept. 23, 1994, 108 Stat. 2291

Section 87, R.S. §5203, related to restriction on use by bank of its circulating notes.

Section 88, R.S. §5206, related to restriction on use by bank of notes of other banks.

Section 89, R.S. §5196, related to duty of bank to receive circulating notes of other banks in payment of debts.

§90. Depositaries of public moneys and financial agents of Government

All national banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government, as may be required of them. The Secretary of the Treasury shall require the associations thus designated to give satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government: *Provided*, That the Secretary shall, on or before the 1st of January of each year, make a public statement of the securities required during that year for such deposits. And every association so designated as receiver or depositary of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid into the Government for internal revenue, or for loans or

stocks: *Provided*, That the Secretary of the Treasury shall distribute the deposits herein provided for, as far as practicable, equitably between the different States and sections.

Any national banking association may, upon the deposit with it of any funds by any State or political subdivision thereof or any agency or other governmental instrumentality of one or more States or political subdivisions thereof, including any officer, employee, or agent thereof in his official capacity, give security for the safekeeping and prompt payment of the funds so deposited to the same extent and of the same kind as is authorized by the law of the State in which such association is located in the case of other banking institutions in the State.

Any national banking association may, upon the deposit with it of any funds by any federally recognized Indian tribe, or any officer, employee, or agent thereof in his or her official capacity, give security for the safekeeping and prompt payment of the funds so deposited by the deposit of United States bonds and otherwise as may be prescribed by the Secretary of the Treasury for public funds under the first paragraph of this section.

Notwithstanding chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, the Secretary may select associations as financial agents in accordance with any process the Secretary deems appropriate and their reasonable duties may include the provision of electronic benefit transfer services (including State-administered benefits with the consent of the States), as defined by the Secretary.

(R.S. §5153; Mar. 3, 1901, ch. 871, 31 Stat. 1448; Mar. 4, 1907, ch. 2913, §3, 34 Stat. 1290; Dec. 23, 1913, ch. 6, §27, 38 Stat. 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; June 25, 1930, ch. 604, 46 Stat. 809; Aug. 18, 1950, ch. 754, 64 Stat. 463; Pub. L. 96–153, title III, §323(f), Dec. 21, 1979, 93 Stat. 1120; Pub. L. 104–208, div. A, title I, §101(f) [§2(1)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–386.)

EDITORIAL NOTES

CODIFICATION

In text, "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

R.S. §5153 derived from act June 3, 1864, ch. 106, §45, 13 Stat. 113, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1996—Pub. L. 104–208 added fourth par.

1979—Pub. L. 96–153 added third par.

1950—Act Aug. 18, 1950, permitted national banks to accept and give security for deposits of funds made by agencies or governmental instrumentalities or States or political subdivisions thereof and by their officers, employees or agents.

1930—Act June 25, 1930, added second par.

§91. Transfers by bank and other acts in contemplation of insolvency

All transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any national banking association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by chapter 4 of title 62 of the Revised Statutes, or with a view to the preference of one creditor to another, except in payment of its

circulating notes, shall be utterly null and void; and no attachment, injunction, or execution, shall be issued against such association or its property before final judgment in any suit, action, or proceeding, in any State, county, or municipal court.

(R.S. §5242.)

EDITORIAL NOTES

REFERENCES IN TEXT

Chapter 4 of title 62 of the Revised Statutes, referred to in text, was in the original "this chapter", meaning chapter 4 of title 62 of the Revised Statutes, consisting of R.S. §§5220 to 5244, which are classified to this section and sections 16, 43, 93, 93a, 181, 182, 192 to 194, 196, and 481 to 485 of this title. See, also, section 709 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5220 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5242 derived from act June 3, 1864, ch. 106, §52, 13 Stat. 115, which was the National Bank Act, and act Mar. 3, 1873, ch. 269, §2, 17 Stat. 603. See section 38 of this title.

§92. Acting as insurance agent or broker

In addition to the powers now vested by law in national banking associations organized under the laws of the United States any such association located and doing business in any place the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census, may, under such rules and regulations as may be prescribed by the Comptroller of the Currency, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State in which said bank is located to do business in said State, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said association and the insurance company for which it may act as agent: *Provided, however*, That no such bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal: *And provided further*, That the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

(Dec. 23, 1913, ch. 6, §13 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 753; amended Pub. L. 97-320, title IV, §403(b), Oct. 15, 1982, 96 Stat. 1511.)

EDITORIAL NOTES

CODIFICATION

Section is based on the eleventh par. of section 13 of act Dec. 23, 1913, as amended. The eleventh par. constituted the ninth par. of section 13 in 1916 (39 Stat. 752, 753), became the tenth par. in 1923 (42 Stat. 1478), and became the eleventh par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 342 to 344 of this title.

For decision by U.S. Supreme Court that, despite faulty placement of quotation marks, act Sept. 7, 1916, placed within section 13 of act Dec. 23, 1913, each of the ten pars. located between the phrases that introduced the amendments to sections 13 and 14 of said act, that only the seventh par. (rather than seventh to tenth pars.) comprised the amended R.S. §5202, and that section 20 of act Apr. 5, 1918 (40 Stat. 512) (which amended R.S. §5202 comprised of a single par.), did not amend section 13 of said act so as to repeal the eighth to tenth pars., see *United States National Bank of Oregon v. Independent Insurance Agents of America, Inc., et al.*, 508 U.S. 439, 113 S.Ct. 2173, 124 L.Ed. 2d 402 (1993). As the result of subsequent amendments, such seventh to tenth pars. of section 13 now constitute the ninth to twelfth pars. The ninth par. amended former section 82 of this title, and the tenth to twelfth pars. are classified to sections 361, 92, and 373, respectively, of this title.

AMENDMENTS

1982—Pub. L. 97-320 struck out "; and may also act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission" after "may act as agent" and "guarantee either the principal or interest of any such loans or" after "shall in any case".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-320 effective upon the expiration of 180 days after Oct. 15, 1982, see section 403(c) of Pub. L. 97-320, set out as a note under section 371 of this title.

MORATORIUM

Pub. L. 100-86, title II, §201(a), (b)(5), Aug. 10, 1987, 101 Stat. 581, 583, provided that, during period beginning Mar. 6, 1987, and ending Mar. 1, 1988, national banks and Federal branches or agencies of foreign banks could not expand their insurance agency activities pursuant to this section into places where they were not conducting such activities as of Mar. 5, 1987.

§92a. Trust powers

(a) Authority of Comptroller of the Currency

The Comptroller of the Currency shall be authorized and empowered to grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State in which the national bank is located.

(b) Grant and exercise of powers deemed not in contravention of State or local law

Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with national banks, the granting to and the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this section.

(c) Segregation of fiduciary and general assets; separate books and records; access of State banking authorities to reports of examinations, books, records, and assets

National banks exercising any or all of the powers enumerating 1 in this section shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authorities may have access to reports of examination made by the Comptroller of the Currency insofar as such reports relate to the trust department of such bank, but nothing in this section shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such bank.

(d) Prohibited operations; separate investment account; collateral for certain funds used in conduct of business

No national bank shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the bank awaiting investment shall be carried in a separate account and shall not be used by the bank in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Comptroller of the Currency.

(e) Lien and claim upon bank failure

In the event of the failure of such bank the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of

the bank.

(f) Deposits of securities for protection of private or court trusts; execution of and exemption from bond

Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, national banks so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. National banks in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. National banks shall have power to execute such bond when so required by the laws of the State.

(g) Officials' oath or affidavit

In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such national bank may take the necessary oath or execute the necessary affidavit.

(h) Loans of trust funds to officers and employees prohibited; penalties

It shall be unlawful for any national banking association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than \$5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

(i) Considerations determinative of grant or denial of applications; minimum capital and surplus for issuance of permit

In passing upon applications for permission to exercise the powers enumerated in this section, the Comptroller of the Currency may take into consideration the amount of capital and surplus of the applying bank, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to him proper, and may grant or refuse the application accordingly: *Provided*, That no permit shall be issued to any national banking association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

(j) Surrender of authorization; board resolution; Comptroller certification; activities affected; regulations

Any national banking association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Comptroller of the Currency a certified copy of a resolution of its board of directors signifying such desire. Upon receipt of such resolution, the Comptroller of the Currency, after satisfying himself that such bank has been relieved in accordance with State law of all duties as trustee, executory,² administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, or other fiduciary, under court, private, or other appointments previously accepted under authority of this section, may, in his discretion, issue to such bank a certificate certifying that such bank is no longer authorized to exercise the powers granted by this section. Upon the issuance of such a certificate by the Comptroller of the Currency, such bank (1) shall no longer be subject to the provisions of this section or the regulations of the Comptroller of the Currency made pursuant thereto, (2) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (3) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers

pursuant to the provisions of this section. The Comptroller of the Currency is authorized and empowered to promulgate such regulations as he may deem necessary to enforce compliance with the provisions of this section and the proper exercise of the powers granted therein.

(k) Revocation; procedures applicable

(1) In addition to the authority conferred by other law, if, in the opinion of the Comptroller of the Currency, a national banking association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this section, the Comptroller may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this section. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

(2) Such hearing shall be conducted in accordance with the provisions of section 1818(h) of this title, and subject to judicial review as provided in such section, and shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or later date is set by the Comptroller at the request of any association so served.

(3) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Comptroller shall find that any allegation specified in the notice of charges has been established, the Comptroller may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this section, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

(4) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.

(Pub. L. 87-722, §1, Sept. 28, 1962, 76 Stat. 668; Pub. L. 96-221, title VII, §704, Mar. 31, 1980, 94 Stat. 187; Pub. L. 112-231, §2(b)(1), Dec. 28, 2012, 126 Stat. 1619.)

EDITORIAL NOTES

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-231, §2(b)(1)(A), struck out "committee of estates of lunatics," before "or in any other fiduciary capacity".

Subsec. (j). Pub. L. 112-231, §2(b)(1)(B), struck out "committee of estates of lunatics" before "or other fiduciary, under court, private,".

1980—Subsec. (k). Pub. L. 96-221 added subsec. (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Pub. L. 87-722, §2, Sept. 28, 1962, 76 Stat. 669, provided that: "Nothing contained in this Act [enacting this section, amending sections 581 and 584(a)(2) of Title 26, and repealing section 248(k) of this title] shall be deemed to affect or curtail the right of any national bank to act in fiduciary capacities under a permit granted before the date of enactment of this Act [Sept. 28, 1962] by the Board of Governors of the Federal Reserve System, nor to affect the validity of any transactions entered into at any time by any national bank

pursuant to such permit. On and after the date of enactment of this Act the exercise of fiduciary powers by national banks shall be subject to the provisions of this Act and the requirements of regulations issued by the Comptroller of the Currency pursuant to the authority granted by this Act."

¹ So in original. Probably should be "enumerated".

² So in original. Probably should be "executor,."

§93. Violation of provisions of chapter

(a) Forfeiture of franchise; personal liability of directors

If the directors of any national banking association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of title 62 of the Revised Statutes, all the rights, privileges, and franchises of the association shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper district or Territorial court of the United States in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved. And in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

(b) Civil money penalty

(1) First tier

Any national banking association which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such association who, violates any provision of title 62 of the Revised Statutes or any of the provisions of section 92a of this title, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(2) Second tier

Notwithstanding paragraph (1), any national banking association which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such association who, commits any violation described in paragraph (1) which— ¹

(A)(i) commits any violation described in any ² paragraph (1);

(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such association; or

(iii) breaches any fiduciary duty;

(B) which violation, practice, or breach—

(i) is part of a pattern of misconduct;

(ii) causes or is likely to cause more than a minimal loss to such association; or

(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

(3) Third tier

Notwithstanding paragraphs (1) and (2), any national banking association which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such association who—

(A) knowingly—

(i) commits any violation described in paragraph (1);

(ii) engages in any unsafe or unsound practice in conducting the affairs of such association;

or

(iii) breaches any fiduciary duty; and

(B) knowingly or recklessly causes a substantial loss to such association or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

(4) Maximum amounts of penalties for any violation described in paragraph (3)

The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

(A) in the case of any person other than a national banking association, an amount not to exceed \$1,000,000; and

(B) in the case of a national banking association, an amount not to exceed the lesser of—

(i) \$1,000,000; or

(ii) 1 percent of the total assets of such association.

(5) Assessment; etc.

Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(6) Hearing

The association or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such association or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this subsection.

(7) Disbursement

All penalties collected under authority of this subsection shall be deposited into the Treasury.

(8) "Violate" defined

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(12) ⁴ Regulations

The Comptroller shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.

(c) Notice under this section after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such an association (including a separation caused by the closing of such an association) shall not affect the jurisdiction and authority of the Comptroller of the Currency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such association (whether such date occurs before, on, or after August 9, 1989).

(d) Forfeiture of franchise for money laundering or cash transaction reporting offenses

(1) In general

(A) Conviction of title 18 offenses

(i) Duty to notify

If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense under section 1956 or 1957 of title 18, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

(ii) Notice of termination; pretermination hearing

After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

(B) Conviction of title 31 offenses

If a national bank, a Federal branch, or a Federal agency is convicted of any criminal offense under section 5322 or 5324 of title 31, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

(C) Judicial review

Section 1818(h) of this title shall apply to any proceeding under this subsection.

(2) Factors to be considered

In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall take into account the following factors:

(A) The extent to which directors or senior executive officers of the national bank, Federal branch, or Federal agency knew of, or were involved in, the commission of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank, Federal branch, or Federal agency which were designed to prevent the occurrence of any such offense.

(C) The extent to which the national bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

(D) The extent to which the national bank, Federal branch, or Federal agency has implemented additional internal controls (since the commission of the offense of which the bank, Federal branch, or Federal agency was found guilty) to prevent the occurrence of any other money laundering offense.

(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

(3) Successor liability

This subsection shall not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

(4) "Senior executive officer" defined

The term "senior executive officer" has the same meaning as in regulations prescribed under section 1831i(f) of this title.

(d) ⁵ Authority

The Comptroller of the Currency may act in the Comptroller's own name and through the Comptroller's own attorneys in enforcing any provision of title 62 of the Revised Statutes,

regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.

(R.S. §5239; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Pub. L. 95-630, title I, §103, Nov. 10, 1978, 92 Stat. 3643; Pub. L. 97-320, title IV, §424(d)(3), (f), (g), Oct. 15, 1982, 96 Stat. 1523; Pub. L. 97-457, §24, Jan. 12, 1983, 96 Stat. 2510; Pub. L. 101-73, title IX, §§905(e), 907(e), Aug. 9, 1989, 103 Stat. 460, 469; Pub. L. 102-550, title XV, §1502(a), Oct. 28, 1992, 106 Stat. 4045; Pub. L. 103-322, title XXXIII, §330017(b)(2), Sept. 13, 1994, 108 Stat. 2149; Pub. L. 103-325, title III, §331(b)(3), title IV, §§411(c)(2)(C), 413(b)(2), Sept. 23, 1994, 108 Stat. 2232, 2253, 2254.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in subsecs. (a), (b)(1), and (d), was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. §5239 derived from act June 3, 1864, ch. 106, §53, 13 Stat. 116, which was the National Bank Act. See section 38 of this title.

Act Mar. 3, 1911, conferred the powers and duties of the former circuit courts upon the district courts.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-322, §330017(b)(2), and Pub. L. 103-325, §413(b)(2), amended section identically, redesignating subsec. (c), relating to forfeiture of franchise for money laundering, as (d).

Subsec. (d). Pub. L. 103-322, §330017(b)(2), and Pub. L. 103-325, §413(b)(2), amended section identically, redesignating subsec. (c), relating to forfeiture of franchise for money laundering, as (d).

Pub. L. 103-325, §331(b)(3), added subsec. (d) relating to authority.

Subsec. (d)(1)(B). Pub. L. 103-325, §411(c)(2)(C), substituted "section 5322 or 5324 of title 31" for "section 5322 of title 31".

1992—Subsec. (c). Pub. L. 102-550 added subsec. (c) relating to forfeiture of franchise for money laundering.

1989—Subsec. (b). Pub. L. 101-73, §907(e), amended subsec. (b) generally, revising and restating as pars. (1) to (8) and (12) provisions of former pars. (1) to (8).

Subsec. (c). Pub. L. 101-73, §905(e), added subsec. (c) relating to notice after separation from service.

1982—Subsec. (b)(1). Pub. L. 97-320, as amended by Pub. L. 97-457, inserted "or any of the provisions of section 92a of this title", and substituted "may be assessed" for "shall be assessed" and "title" for "chapter".

1978—Pub. L. 95-630 designated existing provisions as subsec. (a) and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-73, title IX, §907(l), Aug. 9, 1989, 103 Stat. 476, provided that: "The amendments made by this section [amending this section and sections 481, 504, 505, 1467a, 1786, 1817, 1818, 1828, 1847, and 1972 of this title] shall apply with respect to conduct engaged in by any person after the date of the enactment of this Act [Aug. 9, 1989], except that the increased maximum civil penalties of \$5,000 and \$25,000 per violation or per day may apply to such conduct engaged in before such date if such conduct—

"(1) is not already subject to a notice (initiating an administrative proceeding) issued by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act [12 U.S.C. 1813(q)]) or the National Credit Union Administration Board; and

"(2) occurred after the completion of the last report of examination of the institution involved by the appropriate Federal banking agency (as so defined) occurring before the date of the enactment of this Act."

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-630, title I, §109, Nov. 10, 1978, 92 Stat. 3665, provided that: "Any amendment made by this title which provides for the imposition of civil penalties [enacting sections 504 and 505 of this title and amending this section and sections 1464, 1730, 1730a, 1786, 1818, 1828, and 1847 of this title] shall apply only to violations occurring or continuing after the date of its enactment [Nov. 10, 1978]."

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.

¹ So in original. The words ", commits any violation described in paragraph (1) which" probably should not appear.

² So in original. The word "any" probably should not appear.

³ So in original. Probably should be "not to".

⁴ So in original. No pars. (9) to (11) have been enacted.

⁵ So in original. Probably should be "(e)".

§93a. Authority to prescribe rules and regulations

Except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency, the Comptroller of the Currency is authorized to prescribe rules and regulations to carry out the responsibilities of the office, except that the authority conferred by this section does not apply to section 36 of this title or to securities activities of National Banks under the Act commonly known as the "Glass-Steagall Act".

(R.S. §5239A, as added Pub. L. 96-221, title VII, §708, Mar. 31, 1980, 94 Stat. 188.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Glass-Steagall Act, referred to in text, probably refers to act June 16, 1933, ch. 89, 48 Stat. 162, also known as the Banking Act of 1933 or the Glass-Steagall Act, 1933, rather than to act Feb. 27, 1932, ch. 58, 47 Stat. 56, known as the Glass-Steagall Act, 1932. Section 16 of the 1933 act, which amended section 24 (Seventh) of this title, related in part to securities activities of national banks. For complete classification of these Acts to the Code, see Tables.

§94. Venue of suits

Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.

(R.S. §5198; Feb. 18, 1875, ch. 80, §1, 18 Stat. 320; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Pub. L. 97-320, title IV, §406, Oct. 15, 1982, 96 Stat. 1512; Pub. L. 97-457, §20(a), Jan. 12, 1983, 96 Stat. 2509.)

EDITORIAL NOTES

CODIFICATION

The last sentence of R.S. §5198, as added by act Feb. 18, 1875, ch. 80, §1, 18 Stat. 320, appears to have been derived from act June 3, 1864, ch. 106, §57, 13 Stat. 116, which was the National Bank Act. See section 38 of this title.

Section is comprised of last sentence of R.S. §5198 as added by act Feb. 18, 1875, ch. 80, §1, 18 Stat. 320. The remaining sentences of R.S. §5198 are classified to section 86 of this title.

Act Mar. 3, 1911, conferred powers and duties of former circuit courts on district courts.

AMENDMENTS

1982—Pub. L. 97–320, as amended by Pub. L. 97–457, amended section generally. Prior to amendment section read as follows: "Actions and proceedings against any association under this chapter may be had in any district or Territorial court of the United States held within the district in which such association may be established, or in any State, county, or municipal court in the county or city in which said association is located having jurisdiction in similar cases."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97–457, §20(b), Jan. 12, 1983, 96 Stat. 2509, provided that: "The amendment made by subsection (a) [amending this section] shall be deemed to have taken effect upon the enactment of Public Law 97–320 [Oct. 15, 1982]."

§94a. Repealed. June 25, 1948, ch. 646, §39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act July 12, 1882, ch. 290, §4, 22 Stat. 163, related to jurisdiction and venue. See sections 1348 and 1394 of Title 28, Judiciary and Judicial Procedure.

§95. Emergency limitations and restrictions on business of members of Federal Reserve System; designation of legal holiday for national banking associations; exceptions; "State" defined

(a) In order to provide for the safer and more effective operation of the National Banking System and the Federal Reserve System, to preserve for the people the full benefits of the currency provided for by the Congress through the National Banking System and the Federal Reserve System, and to relieve interstate commerce of the burdens and obstructions resulting from the receipt on an unsound or unsafe basis of deposits subject to withdrawal by check, during such emergency period as the President of the United States by proclamation may prescribe, no member bank of the Federal Reserve System shall transact any banking business except to such extent and subject to such regulations, limitations and restrictions as may be prescribed by the Secretary of the Treasury, with the approval of the President. Any individual, partnership, corporation, or association, or any director, officer or employee thereof, violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or, if a natural person, may, in addition to such fine, be imprisoned for a term not exceeding ten years. Each day that any such violation continues shall be deemed a separate offense.

(b)(1) In the event of natural calamity, riot, insurrection, war, or other emergency conditions occurring in any State whether caused by acts of nature or of man, the Comptroller of the Currency may designate by proclamation any day a legal holiday for the national banking associations located in that State. In the event that the emergency conditions affect only part of a State, the Comptroller of the Currency may designate the part so affected and may proclaim a legal holiday for the national banking associations located in that affected part. In the event that a State or a State official

authorized by law designates any day as a legal holiday for ceremonial or emergency reasons, for the State or any part thereof, that same day shall be a legal holiday for all national banking associations or their offices located in that State or the part so affected. A national banking association or its affected offices may close or remain open on such a State-designated holiday unless the Comptroller of the Currency by written order directs otherwise.

(2) For the purpose of this subsection, the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Mar. 9, 1933, ch. 1, title I, §4, 48 Stat. 2; Pub. L. 96-221, title VII, §705, Mar. 31, 1980, 94 Stat. 187; Pub. L. 97-320, title IV, §407, Oct. 15, 1982, 96 Stat. 1513; Pub. L. 97-457, §21, Jan. 12, 1983, 96 Stat. 2509.)

EDITORIAL NOTES

AMENDMENTS

1983—Subsec. (b)(1). Pub. L. 97-457 inserted "a State or" before "a State official".

1982—Subsec. (b)(1). Pub. L. 97-320 substituted "In the event that a State official authorized by law designates any day as a legal holiday for ceremonial or emergency reasons, for the State or any part thereof, that same day shall be a legal holiday for all national banking associations or their offices located in that State or the part so affected. A national banking association or its affected offices may close or remain open on such a State-designated holiday unless the Comptroller of the Currency by written order directs otherwise" for "In the event that a State or a State official authorized by law designates any day as a legal holiday for either emergency or ceremonial reasons for all banks chartered by that State to do business within that State, that same day shall be a legal holiday for all national banking associations chartered to do business within that State unless the Comptroller of the Currency shall by written order permit all national banking associations located in that State to remain open".

1980—Pub. L. 96-221 designated existing provisions as subsec. (a) and added subsec. (b).

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

BANK HOLIDAY OF 1933

Proclamations Nos. 2039, 2040, and 2070, dated Mar. 6, 1933, Mar. 9, 1933, and Dec. 30, 1933, respectively, related to the temporary suspension of banking transactions beginning Mar. 6, 1933, by all member banks of the Federal Reserve System.

Pursuant to Ex. Ord. No. 6073, dated March 10, 1933, formerly set out as a note under this section, the Secretary of the Treasury by order of March 11, 1933, authorized all Federal reserve banks and nonmember banks and other banking institutions to resume their normal and usual banking functions on March 13, 1933, subject to certain restrictions. See 31 C.F.R. 121.20-121.22. The fifth and sixth paragraphs of Ex. Ord. No. 6073, relating to the removal of gold coin, gold bullion, or gold certificates from the United States by corporations, etc., including banking institutions and authorization of banking institutions to pay out gold coin, gold bullion or gold certificates, were revoked by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003.

PROC. NO. 2725. EXEMPTION OF MEMBER BANKS OF FEDERAL RESERVE SYSTEM

Proc. No. 2725, Apr. 7, 1947, 12 F.R. 2343, 61 Stat. 1062, provided:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, acting under and by virtue of the authority vested in me by section 5(b) of the Trading with the Enemy Act of October 6, 1917, 40 Stat. 415, as amended [50 U.S.C. 4305(b)], and section 4 of the act of March 9, 1933, 48 Stat. 2 [12 U.S.C. 95] and by virtue of all other authority vested in me, do hereby, in the interest of the internal management of the Government, proclaim, order, direct, and declare that the said proclamations of March 6 and March 9, 1933, and Executive order of March 10, 1933, as amended, are further amended to exclude from their scope banking institutions which are members of the Federal Reserve System: *Provided, however,* That

no banking institution shall pay out any gold coin, gold bullion, or gold certificates, except as authorized by the Secretary of the Treasury, or allow the withdrawal of any currency for hoarding.

This proclamation shall become effective as of March 15, 1947.

§§95a, 95b. Omitted

EDITORIAL NOTES

CODIFICATION

Section 95a, act Oct. 6, 1917, ch. 106, §5(b), 40 Stat. 415; Sept. 24, 1918, ch. 176, §5, 40 Stat. 966; Mar. 9, 1933, ch. 1, title I, §2, 48 Stat. 1; May 7, 1940, ch. 185, §1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, §301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 69 Stat. 1352; Pub. L. 95–223, title I, §§101(a), 102, 103(b), Dec. 28, 1977, 91 Stat. 1625, 1626; Pub. L. 100–418, title II, §2502(a)(1), Aug. 23, 1988, 102 Stat. 1371; Pub. L. 103–236, title V, §525(b)(1), Apr. 30, 1994, 108 Stat. 474, which related to regulation of transactions in foreign exchange of gold and silver, property transfers, vested interests, enforcement and penalties, was omitted because §5(b) of act Oct. 6, 1917, is also classified to section 4305(b) of Title 50, War and National Defense.

Section 95b, act Mar. 9, 1933, ch. 1, title I, §1, 48 Stat. 1, which related to ratification of acts of President and Secretary of the Treasury, was omitted because §1 of act Mar. 9, 1933, is also set out as a note under section 4305 of Title 50, War and National Defense.

SUBCHAPTER V—OBTAINING AND ISSUING CIRCULATING NOTES

§§101 to 110. Repealed. Pub. L. 103–325, title VI, §602(e)(5)–(11), (f)(2)–(4)(A), (g)(9), Sept. 23, 1994, 108 Stat. 2292, 2294

Section 101, acts Mar. 14, 1900, ch. 41, §12, 31 Stat. 49; Oct. 5, 1917, ch. 74, §2, 40 Stat. 342, provided for delivery of circulating notes in blank to national banking associations depositing bonds with Treasurer of United States.

Section 101a, R.S. §5159; Dec. 23, 1913, ch. 6, §17, 38 Stat. 268; June 21, 1917, ch. 32, §9, 40 Stat. 239, related to deposit of bonds to secure circulating notes.

Section 102, R.S. §5158, construed term "United States bonds" as including registered bonds.

Section 103, act Oct. 5, 1917, ch. 74, §3, 40 Stat. 342, related to denominations of notes and limitation on amount of \$1 and \$2 notes.

Section 104, R.S. §5172; May 30, 1908, ch. 229, §11, 35 Stat. 551; Dec. 23, 1913, ch. 6, §27, 38 Stat. 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; Mar. 3, 1919, ch. 101, §4, 40 Stat. 1315, related to printing and form of circulating notes.

Section 105, act June 20, 1874, ch. 343, §5, 18 Stat. 124, provided that Comptroller of Currency was to print charter numbers of association on national bank notes.

Section 106, act Mar. 3, 1875, ch. 130, §1, 18 Stat. 372, provided for printing national-bank notes on distinctive paper adopted by Secretary of the Treasury.

Section 107, R.S. §5173, related to custody of plates and dies procured for printing notes and payment of expenses.

Section 108, R.S. §5174; Feb. 27, 1877, ch. 69, §1, 19 Stat. 252, related to examination of plates, dies, and other material from which national-bank circulation was printed, and destruction of obsolete material.

Section 109, R.S. §5182; Jan. 13, 1920, ch. 38, 41 Stat. 387, provided that banks could issue and circulate notes the same as money if signed by officers in manner of obligatory promissory notes payable on demand at place of business, and specified demands for which such notes were to be received.

Section 110, R.S. §5183; Feb. 18, 1875, ch. 80, §1, 18 Stat. 320, prohibited banks from issuing unauthorized notes.

SUBCHAPTER VI—REDEMPTION AND REPLACEMENT OF CIRCULATING NOTES

§121. Repealed. Pub. L. 103–325, title VI, §602(f)(4)(B), Sept. 23, 1994, 108 Stat. 2292

Section, acts June 20, 1874, ch. 343, §3, 18 Stat. 123; Dec. 23, 1913, ch. 6, §20, 38 Stat. 271; May 29, 1920, ch. 214, §1, 41 Stat. 654, provided that every national banking association was to establish reserve in Treasury for redemption of notes by Treasurer of United States, forward notes unfit for use to Treasurer for disposition, and reimburse expenses of Treasury.

§121a. Redemption of notes unidentifiable as to bank of issue

Whenever any Federal Reserve bank notes or Federal Reserve notes are presented to the Treasurer of the United States for redemption and such notes cannot be identified as to the bank of issue or the bank through which issued, the Treasurer of the United States may redeem such notes under such rules and regulations as the Secretary of the Treasury may prescribe.

(June 13, 1933, ch. 62, §1, 48 Stat. 127; Pub. L. 89–427, §4(a), May 20, 1966, 80 Stat. 161; Pub. L. 103–325, title VI, §602(g)(8)(A), Sept. 23, 1994, 108 Stat. 2294.)

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–325, §602(g)(8)(A)(ii), which directed the amendment of this section by striking out ", and the notes, other than Federal Reserves notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction" after "Treasury may prescribe", was executed by striking out text which contained the word "Reserves" rather than "Reserve", to reflect the probable intent of Congress.

Pub. L. 103–325, §602(g)(8)(A)(i), substituted "Whenever any Federal Reserve bank notes," for "Whenever any national-bank notes, Federal Reserve bank notes,".

1966—Pub. L. 89–427 excepted Federal Reserve notes from the category of notes which, upon redemption by the Treasurer of the United States, must be forwarded to the Comptroller of the Currency for cancellation and destruction.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

§122. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section, act July 14, 1890, ch. 708, §6, 26 Stat. 289, related to deposits received by the Treasurer from national banks made to redeem circulating notes of such banks and disposition of those deposits.

§122a. Redeemed notes of unidentifiable issue; funds charged against

Federal Reserve bank notes redeemed by the Treasurer of the United States under section 121a of this title shall be charged against the balance of deposits for the retirement of Federal Reserve bank notes under the provisions of sections 122 and 445 ¹ of this title; and charges for Federal Reserve notes redeemed by the Treasurer of the United States under section 121a of this title shall be apportioned among the twelve Federal Reserve banks as determined by the Board of Governors of the Federal Reserve System.

(June 13, 1933, ch. 62, §2, 48 Stat. 128; Pub. L. 89–427, §4(b), May 20, 1966, 80 Stat. 161; Pub. L. 103–325, title VI, §602(g)(8)(B), Sept. 23, 1994, 108 Stat. 2294.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 122 of this title, referred to in text, was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

Section 445 of this title, referred to in text, was repealed by act June 12, 1945, ch. 186, §3, 59 Stat. 238.

AMENDMENTS

1994—Pub. L. 103–325 struck out "National-bank notes and" before "Federal Reserve bank notes redeemed" and "national-bank notes and" after "deposits for the retirement of".

1966—Pub. L. 89–427 substituted provisions allowing the Board of Governors of the Federal Reserve System to determine the proper apportioning between the Federal Reserve banks of the charges for the redemption by the Treasurer of the United States of Federal Reserve notes that are unidentifiable as to bank of issue for provisions that set out the exact formula for determining the proper apportioning of charges using a proportion based upon the amount of Federal Reserve notes of each Federal Reserve bank in circulation in the 31st day of December of the year preceding the date of redemption, with the amount apportioned under the formula charged by the Treasurer of the United States against deposit in the gold-redemption fund made by the bank or its Federal Reserve agent.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

¹ [*See References in Text note below.*](#)

§§123 to 126. Repealed. Pub. L. 103–325, title VI, §602(e)(12), (13), (f)(4)(C), (6), Sept. 23, 1994, 108 Stat. 2292, 2293

Section 123, R.S. §5195; June 20, 1874, ch. 343, §3, 18 Stat. 123, related to redemption of notes by bank at own counter.

Section 124, R.S. §5184; June 23, 1874, ch. 455, §1, 18 Stat. 206, related to destroying and replacing notes unfit for use.

Section 125, act July 28, 1892, ch. 317, 27 Stat. 322, related to redemption of lost or stolen notes.

Section 126, act June 20, 1874, ch. 343, §8, 18 Stat. 125, related to duty of Treasurer, designated depositaries, and national-bank depositaries of United States to return notes of failed or liquidated banks to Treasury for redemption.

§127. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 633

Section, act Mar. 3, 1875, ch. 130, §3, 18 Stat. 399, provided for a clerical force for redemption of circulating notes.

SUBCHAPTER VII—PROCEEDINGS ON FAILURE OF BANK TO REDEEM CIRCULATING NOTES

§§131 to 138. Repealed. Pub. L. 103–325, title VI, §602(e)(14)–(21), Sept. 23,

1994, 108 Stat. 2292

Section 131, R.S. §5226; June 20, 1874, ch. 343, §3, 18 Stat. 123, related to protest of notes and waiver of demand and notice of protest.

Section 132, R.S. §5227, related to appointment by Comptroller of the Currency of special agent to examine failure of national banking association to redeem its circulating notes and provided for forfeiture of association's bonds to United States based on findings of agent.

Section 133, R.S. §5228; Feb. 18, 1875, ch. 80, §1, 18 Stat. 320, prohibited banking associations from continuing in business after default.

Section 134, R.S. §5229, provided that, upon declaration of forfeiture of association's bonds, Comptroller of the Currency was to notify holders of circulating notes to present notes for payment and was authorized to cancel bonds pledged by association.

Section 135, R.S. §5232, related to disposition of redeemed notes and perpetuation of evidence of payment of such notes.

Section 136, R.S. §5233, related to cancellation of redeemed notes.

Section 137, R.S. §5230, provided Comptroller of the Currency with option of selling defaulting association's bonds at auction, rather than cancelling them, and granted United States paramount lien on all association assets in case of deficiencies from such sale.

Section 138, R.S. §5231, related to private sale of defaulting association's bonds by Comptroller of the Currency.

SUBCHAPTER VIII—RESERVE CITIES; LAWFUL RESERVES

§141. Omitted

EDITORIAL NOTES

CODIFICATION

Section, R.S. §5191 (part); acts Dec. 23, 1913, ch. 6, §2 (part), 38 Stat. 251; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704, which set out a list of reserve and central reserve cities and permitted the Board of Governors of the Federal Reserve System to reclassify, add to, or terminate the designation of such cities, was apparently included in the 1926 ed. of the Code on the basis of authorities other than the source credits. Accordingly, and because the continuing accuracy of the table was doubtful, this section was omitted.

Some of the other provisions of R.S. §5191 are classified to sections 142 and 143 of this title and some were not included in the Code.

For classification of other provisions of section 2 of act Dec. 23, 1913, see Codification note set out under section 222 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CENTRAL RESERVE AND RESERVE CITIES

Pub. L. 86–114, §3(b), July 28, 1959, 73 Stat. 263, provided that: "Effective three years after the date of the enactment of this Act [July 28, 1959]—

"(1) New York and Chicago are reclassified as reserve cities under the Federal Reserve Act;

"(2) the classification 'central reserve city' under the Federal Reserve Act, and the authority of the Board of Governors of the Federal Reserve System to classify or reclassify cities as 'central reserve cities' under such Act, are terminated;

"(3) section 5192 of the Revised Statutes of the United States (12 U.S.C., sec. 144) is amended by striking out 'central reserve or';

"(4) section 2 of the Act of March 3, 1887 (ch. 378; 24 Stat. 560) is repealed;

"(5) the last paragraph of section 2 of the Federal Reserve act (12 U.S.C., sec. 224) is amended by striking out 'and central reserve cities';

"(6) section 11(e) of the Federal Reserve Act (12 U.S.C., sec. 248e) is amended by striking out 'and

central reserve' each place it appears;

"(7) the third paragraph (lettered (a)) of section 19 of the Federal Reserve Act (12 U.S.C., sec. 462) is amended by striking out 'or central reserve';

"(8) the fifth paragraph (lettered (c)) of such section 19 is repealed;

"(9) subparagraph (2) of the sixth paragraph of such section 19 (as added by the first section of this Act) is amended by striking out 'and a member bank in a central reserve city may hold and maintain the reserve balances which are in effect under this section for member banks described in paragraph (a) or (b).';

"(10) the seventh paragraph of such section 19 is amended by striking out clauses (1), (2), (3), and (4) and inserting in lieu thereof the following: '(1) by member banks in reserve cities, (2) by member banks not in reserve cities, or (3) by all member banks'; and

"(11) the seventh paragraph of such section is further amended by striking out 'and central reserve cities'."

§142. Banks in reserve cities; reserves

National banking associations located in reserve cities or central reserve cities shall maintain reserves provided for in section 462 of this title for banks so located.

(R.S. §5191 (part); Dec. 23, 1913, ch. 6, §§19, 27, 38 Stat. 270, 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, §10, 40 Stat. 239.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 462 of this title, referred to in text, was omitted from the Code. See section 461 of this title.

CODIFICATION

R.S. §5191 derived from act June 3, 1864, ch. 106, §31, 13 Stat. 108, which was the National Bank Act, and act Mar. 1, 1872, ch. 22, 17 Stat. 32. See section 38 of this title.

Some of the other provisions of R.S. §5191 were classified to section 141 of this title prior to its omission from the Code, some are classified to section 143 of this title, and some were not included in the Code.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF CENTRAL RESERVE CITIES

Central reserve cities terminated, see section 3(b) of Pub. L. 86-114 set out as a note under former section 141 of this title.

§143. Banks in Alaska and insular possessions; lawful money reserves

Every national banking association located in Alaska or in a dependency or insular possession or any part of the United States outside of the continental United States, and not a member of the Federal reserve system, shall at all times have on hand in lawful money of the United States an amount equal to at least 15 percent of the aggregate amount of its deposits in all respects. Whenever the lawful money of any such association shall fall below 15 percent of its deposits such association shall not increase its liabilities by making any new loans or discounts other than by discounting or purchasing bills of exchange payable at sight nor make any dividends of its profits until the required proportion between the aggregate amount of its deposits and its lawful money of the United States has been restored. And the Comptroller of the Currency shall notify any such association whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve, and if such association shall fail for thirty days thereafter so to make good its lawful money the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association as provided in section 192 of this title.

(R.S. §5191 (part).)

EDITORIAL NOTES

CODIFICATION

R.S. §5191 derived from act June 3, 1864, ch. 106, §31, 13 Stat. 108, which was the National Bank Act, and act Mar. 1, 1872, ch. 22, 17 Stat. 32. See section 38 of this title.

Some of the other provisions of R.S. §5191 were classified to section 141 of this title prior to its omission from the Code, some are classified to section 142 of this title, and some were not included in the Code.

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.

§144. Certain balances counted toward reserves in dependencies and insular possessions

Four-fifths of the reserve of 15 per centum which a national bank located in a dependency or insular possession or any part of the United States outside of the continental United States, and not a member of the Federal Reserve System, is required to keep, may consist of balances due such bank from associations approved by the Comptroller of the Currency and located in any one of the reserve cities as now or hereafter defined by law or designated by the Board of Governors of the Federal Reserve System.

(R.S. §5192; July 1, 1952, ch. 536, 66 Stat. 314; Pub. L. 86–70, §7, June 25, 1959, 73 Stat. 142; Pub. L. 86–114, §3(b)(3), July 28, 1959, 73 Stat. 263.)

EDITORIAL NOTES

CODIFICATION

R.S. §5192 derived from act June 3, 1864, ch. 106, §31, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86–114 struck out "central reserve or" before "reserve cities".

Pub. L. 86–70 struck out "in Alaska or" before "in a dependency".

1952—Act July 1, 1952, reduced the required amount of cash on hand from two-fifths to one-fifth of the required reserve of 15 per centum.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86–114, set out as a Central Reserve and Reserve Cities note under former section 141 of this title.

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.

§§145, 146. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section 145, act July 14, 1890, ch. 708, §2, 26 Stat. 289, authorized counting of treasury notes held by national banking associations as part of their lawful reserve.

Section 146, act July 12, 1882, ch. 290, §12, 22 Stat. 165, related to holding of gold and silver certificates by national banking associations.

SUBCHAPTER IX—FORMATION OF ASSOCIATIONS TO ISSUE GOLD NOTES

§§151 to 153. Repealed. Pub. L. 103–325, title VI, §602(e)(22), (23), (f)(7), Sept. 23, 1994, 108 Stat. 2292, 2293

Section 151, R.S. §5185; Jan. 19, 1875, ch. 19, 18 Stat. 302, related to organization of associations to issue gold notes.

Section 152, R.S. §5186, related to mandatory establishment of lawful money reserves by associations issuing gold notes and reception by such associations of gold notes of other associations in payment of debts.

Section 153, act Feb. 14, 1880, ch. 25, 21 Stat. 66, related to conversion of gold banks into currency banks.

SUBCHAPTER X—BANK EXAMINATIONS; REPORTS

§161. Reports to Comptroller of the Currency

(a) Reports of condition; form; contents; date of making; publication

Every association shall make reports of condition to the Comptroller of the Currency in accordance with the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]. The Comptroller of the Currency may call for additional reports of condition, in such form and containing such information as he may prescribe, on dates to be fixed by him, and may call for special reports from any particular association whenever in his judgment the same are necessary for his use in the performance of his supervisory duties. Each report of condition shall contain a declaration by the president, a vice president, the cashier, or by any other officer designated by the board of directors of the bank to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the bank other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct. Each report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day specified by the Comptroller, and shall be transmitted to the Comptroller within the period of time specified by the Comptroller. Special reports called for by the Comptroller need contain only such information as is specified by the Comptroller in his request therefor, and publication of such reports need be made only if directed by the Comptroller.

(b) Payment of dividends

Every association shall make to the Comptroller reports of the payment of dividends, including advance reports of dividends proposed to be declared or paid in such cases and under such conditions as the Comptroller deems necessary to carry out the purposes of the laws relating to national banking associations in such form and at such times as he may require.

(c) Reports of affiliates; form; contents; date of making; publication; penalties

Each national banking association shall obtain from each of its affiliates other than member banks and furnish to the Comptroller of the Currency not less than four reports during each year, in such

form as the Comptroller may prescribe, verified by the oath or affirmation of the president or such other officer as may be designated by the board of directors of such affiliate to verify such reports, disclosing the information hereinafter provided for as of dates identical with those for which the Comptroller shall during such year require the reports of the condition of the association. Each such report of an affiliate shall be transmitted to the Comptroller at the same time as the corresponding report of the association, except that the Comptroller may, in his discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the Comptroller of the Currency shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the Comptroller to inform himself as to the effect of such relations upon the affairs of such bank. The Comptroller shall also have power to call for additional reports with respect to any such affiliate whenever in his judgment the same are necessary in order to obtain a full and complete knowledge of the conditions of the association with which it is affiliated. Such additional reports shall be transmitted to the Comptroller of the Currency in such form as he may prescribe.

(R.S. §5211; Feb. 27, 1877, ch. 69, §1, 19 Stat. 252; Dec. 28, 1922, ch. 18, 42 Stat. 1067; Feb. 25, 1927, ch. 191, §13, 44 Stat. 1232; June 16, 1933, ch. 89, §27, 48 Stat. 191; Pub. L. 86-230, §§11, 22(b), Sept. 8, 1959, 73 Stat. 458, 466; Pub. L. 86-671, §5, July 14, 1960, 74 Stat. 551; Pub. L. 89-485, §13(d), July 1, 1966, 80 Stat. 243; Pub. L. 101-73, title IX, §911(b)(1), Aug. 9, 1989, 103 Stat. 478; Pub. L. 103-325, title III, §308(a), Sept. 23, 1994, 108 Stat. 2218.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

R.S. §5211 derived from act June 3, 1864, ch. 106, §34, 13 Stat. 109, which was the National Bank Act, and act Mar. 3, 1869, ch. 130, §1, 15 Stat. 326. See section 38 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-325, §308(a)(1), struck out before period at end of fifth sentence "; and the statement of resources and liabilities in the same form in which it is made to the Comptroller shall be published in a newspaper published in the place where such association is established, or if there is no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the association, and such proof of publication shall be furnished as may be required by the Comptroller".

Subsec. (c). Pub. L. 103-325, §308(a)(2), struck out after third sentence "The reports of such affiliates shall be published by the association under the same conditions as govern its own condition reports."

1989—Subsec. (a). Pub. L. 101-73, §911(b)(1)(A), in fifth sentence substituted "within the period of time specified by the Comptroller" for "within ten days after the receipt of a request therefor from him".

Subsec. (c). Pub. L. 101-73, §911(b)(1)(B), struck out at end "Any such affiliated bank which fails to obtain and furnish any report required under this section shall be subject to a penalty of \$100 for each day during which such failure continues."

1966—Subsec. (c). Pub. L. 89-485 struck out second sentence stating that the term "affiliate" shall include holding company affiliates as well as other affiliates.

1960—Subsec. (a). Pub. L. 86-671, §5(a), designated existing provisions of former first par. as subsec. (a), substituted provisions relating to the making of reports of condition in accordance with the Federal Deposit Insurance Act and additional reports of condition containing declaration of officer for former provisions requiring minimum of three reports annually verified by an officer, inserted provisions respecting contents and publication of special reports and deleted requirement for making reports of payment of dividends, which is incorporated in subsec. (b) of this section.

Subsec. (b). Pub. L. 86-671, §5(a), designated existing provisions of former first par. as subsec. (b).

Subsec. (c). Pub. L. 86-671, §5(b), designated existing provisions of former second par. as subsec. (c) and substituted "four" for "three" in first sentence.

1959—Pub. L. 86-230 required transmission of reports to the Comptroller within ten instead of five days

and the making of reports of the payment of dividends including advance reports of dividends proposed to be declared or paid, respectively.

1933—Act June 16, 1933, added second par.

1927—Act Feb. 25, 1927, inserted "or of a vice-president, or of an assistant cashier of the association designated by its board of directors to verify such reports in the absence of the president and cashier, taken before a notary public properly authorized and commissioned by the State in which such notary resides and the association is located, or any other officer having an official seal, authorized in such State to administer oaths" in first sentence, and "and the statement of resources and liabilities together with acknowledgment and attestation", in second sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–73, title IX, §911(i), Aug. 9, 1989, 103 Stat. 482, provided that: "The amendments made by this section [amending this section and sections 164, 324, 1782, 1817, 1847, and 1882 of this title] shall apply with respect to reports filed or required to be filed after the date of the enactment of this Act [Aug. 9, 1989]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–671 effective Jan. 1, 1961, see section 7 of Pub. L. 86–671, set out as a note under section 1817 of this title.

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.

§162. Repealed. Pub. L. 86–671, §6, July 14, 1960, 74 Stat. 552.

Section, act Feb. 26, 1881, ch. 82, 21 Stat. 352, prescribed the manner of verification of reports of condition of national banks. See section 1817 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1961, see section 7 of Pub. L. 86–671, set out as an Effective Date of 1960 Amendment note under section 1817 of this title.

§163. Repealed. Pub. L. 86–230, §22(a), Sept. 8, 1959, 73 Stat. 466

Section, R.S. §5212, related to report of dividends and net earnings. See section 161 of this title.

§164. Penalty for failure to make reports

(a) First tier

Any association which—

(1) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

(A) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 161 of this title, within the period of time specified by the Comptroller; or

(B) submits or publishes any false or misleading report or information; or

(2) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The association shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

(b) Second tier

Any association which—

(1) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 161 of this title, within the period of time specified by the Comptroller; or

(2) submits or publishes any false or misleading report or information,

in a manner not described in subsection (a) shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(c) Third tier

Notwithstanding subsections (a) and (b), if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (b) submits or publishes any false or misleading report or information, the Comptroller may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of the association, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(d) Assessment; etc.

Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

(e) Hearing

Any association against which any penalty is assessed under this subsection ¹ shall be afforded an agency hearing if such association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this section.

(R.S. §5213; Pub. L. 86–230, §12, Sept. 8, 1959, 73 Stat. 458; Pub. L. 101–73, title IX, §911(b)(2), Aug. 9, 1989, 103 Stat. 478.)

EDITORIAL NOTES

CODIFICATION

R.S. §5213 derived from act Mar. 3, 1869, ch. 130, §§1, 2, 15 Stat. 326, 327.

AMENDMENTS

1989—Pub. L. 101–73 amended section generally. Prior to amendment, section read as follows: "Every association which fails to make and transmit any report required under section 161 of this title shall be subject to a penalty of \$100 for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report. Whenever any association delays or refuses to pay the penalty herein imposed, after it has been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States."

1959—Pub. L. 86–230 substituted "section 161 of this title" for "either section 161 or 163 of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable with respect to reports filed or required to be filed after Aug. 9, 1989, see section 911(i) of Pub. L. 101-73, set out as a note under section 161 of this title.

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.

¹ So in original. Probably should be "section".

§165. Omitted

EDITORIAL NOTES

CODIFICATION

Section, R.S. §5241, related to limitation of visitatorial powers. See section 484 of this title.

SUBCHAPTER XI—MISCELLANEOUS PROVISIONS REGARDING UNITED STATES BONDS IN RELATION TO NATIONAL BANKS

§§168 to 177. Repealed. Pub. L. 103-325, title VI, §602(e)(24)–(31), (f)(4)(D), (5)(A), Sept. 23, 1994, 108 Stat. 2292, 2293

Section 168, R.S. §5160, authorized associations to take up bonds upon returning circulating notes to Comptroller of the Currency.

Section 169, R.S. §5161, related to exchange of United States coupon bonds for registered bonds.

Section 170, R.S. §5162; Aug. 23, 1935, ch. 614, §313, 49 Stat. 711, related to manner of making transfers of bonds.

Section 171, R.S. §5163, related to establishment of registry of transferred bonds by Comptroller of the Currency.

Section 172, R.S. §5164, required Comptroller of the Currency to notify national banking associations of transfers from its accounts.

Section 173, R.S. §5165, related to examination of registry and bonds by Comptroller of the Currency and Treasurer of United States.

Section 174, R.S. §5166, related to annual examination of bonds by national banking associations.

Section 175, R.S. §5167, related to custody of bonds and collection of interest.

Section 176, acts June 20, 1874, ch. 343, §4, 18 Stat. 124; June 21, 1917, ch. 32, §9, 40 Stat. 239, provided that associations desiring to withdraw circulating notes could, upon deposit of money with Treasurer of United States, withdraw bonds on deposit with Treasurer for security of such notes.

Section 177, acts July 12, 1882, ch. 290, §8, 22 Stat. 164; Mar. 14, 1900, ch. 41, §12, 31 Stat. 49; June 21, 1917, ch. 32, §9, 40 Stat. 239, related to amount of bonds banks were required to keep on deposit with Treasurer of United States, as security for circulating notes, and authorized banks having deposits in excess of such amount to reduce, or retire in full, their circulation by depositing lawful money.

§177a. Funds available for cost of transporting and redeeming national and

Federal Reserve bank notes

The cost of transporting and redeeming outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.

(Oct. 10, 1940, ch. 841, 54 Stat. 1093; Pub. L. 103-325, title VI, §602(g)(10), Sept. 23, 1994, 108 Stat. 2294.)

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103-325 amended section generally. Prior to amendment, section read as follows: "After the reimbursement to the Treasury from funds derived from assessments made pursuant to section 177 of this title, of all costs lawfully charged thereto for the fiscal year ending June 30, 1941, the balance of such funds shall be covered into the Treasury as miscellaneous receipts; and thereafter the cost of transporting and redeeming such outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriations for the Treasury Department."

§178. Repealed. Pub. L. 103-325, title VI, §602(f)(5)(B), Sept. 23, 1994, 108 Stat. 2293

Section, acts July 12, 1882, ch. 290, §9, 22 Stat. 164; Mar. 14, 1900, ch. 41, §12, 31 Stat. 49; Mar. 4, 1907, ch. 2913, §4, 34 Stat. 1290, authorized national banking associations desiring to withdraw circulating notes to deposit money with Treasurer of United States and withdraw bonds or other securities securing such notes.

SUBCHAPTER XII—VOLUNTARY DISSOLUTION

§181. Voluntary dissolution; appointment and removal of liquidating agent or committee; examination

Any association may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock. If the liquidation is to be effected in whole or in part through the sale of any of its assets to and the assumption of its deposit liabilities by another bank, the purchase and sale agreement must also be approved by its shareholders owning two-thirds of its stock unless an emergency exists and the Comptroller of the Currency specifically waives such requirement for shareholder approval.

The shareholders shall designate one or more persons to act as liquidating agent or committee, who shall conduct the liquidation in accordance with law and under the supervision of the board of directors, who shall require a suitable bond to be given by said agent or committee. The liquidating agent or committee shall render annual reports to the Comptroller of the Currency on the 31st day of December of each year showing the progress of said liquidation until the same is completed. The liquidating agent or committee shall also make an annual report to a meeting of the shareholders to be held on the date fixed in the articles of association for the annual meeting, at which meeting the shareholders may, if they see fit, by a vote representing a majority of the entire stock of the bank, remove the liquidating agent or committee and appoint one or more others in place thereof. A special meeting of the shareholders may be called at any time in the same manner as if the bank continued an active bank and at said meeting the shareholders may, by vote of the majority of the stock, remove the liquidating agent or committee. The Comptroller of the Currency is authorized to have an examination made at any time into the affairs of the liquidating bank until the claims of all creditors have been satisfied, and the expense of making such examinations shall be assessed against such

bank in the same manner as in the case of examinations made pursuant to subchapter XV of chapter 3 of this title.

(R.S. §5220; Aug. 23, 1935, ch. 614, title III, §317, 49 Stat. 712; Pub. L. 86-230, §15, Sept. 8, 1959, 73 Stat. 458.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter XV [§481 et seq.] of chapter 3 of this title, referred to in second par., was in the original a reference to section 5240 of the Revised Statutes.

CODIFICATION

R.S. §5220 derived from act June 3, 1864, ch. 106, §42, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86-230 required shareholder approval of purchase and sale agreement where there is liquidation of a bank effected through sale of its assets and assumption of deposit liabilities and authorized waiver of such requirement in an emergency.

1935—Act Aug. 23, 1935, added second par.

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.

§182. Notice of intent to dissolve

Whenever a vote is taken to go into liquidation it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the association, by its president or cashier, to the Comptroller of the Currency, and publication thereof to be made for a period of two months in every issue of a newspaper published in the city or town in which the association is located, or if no newspaper is there published, then in the newspaper published nearest thereto, that the association is closing up its affairs, and notifying its creditors to present their claims against the association for payment.

(R.S. §5221; Aug. 9, 1955, ch. 626, 69 Stat. 546.)

EDITORIAL NOTES

CODIFICATION

R.S. §5221 derived from act June 3, 1864, ch. 106, §42, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1955—Act Aug. 9, 1955, struck out provisions relating to publication in a newspaper published in the City of New York, and notification to holders of national bank notes to present them for payment.

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.

§§183 to 186. Repealed. Pub. L. 103–325, title VI, §602(e)(32)–(35), Sept. 23, 1994, 108 Stat. 2292

Section 183, R.S. §5222, provided that, within six months of voting to liquidate, an association was to deposit with Treasurer of United States money sufficient to redeem all outstanding circulation.

Section 184, R.S. §5223, exempted associations which wound up business for purpose of consolidating with another association from requirement to deposit money to redeem all outstanding circulation.

Section 185, R.S. §5224; Feb. 18, 1875, ch. 80, §1, 18 Stat. 320, related to reassignment of bonds to association and redemption of notes.

Section 186, R.S. §5225; Feb. 27, 1877, ch. 69, §1, 19 Stat. 252, related to destruction of redeemed notes by Treasurer.

SUBCHAPTER XIII—RECEIVERSHIP

§191. Appointment of receiver for a national bank

(a) In general

The Comptroller of the Currency may, without prior notice or hearings, appoint a receiver for any national bank (and such receiver shall be the Federal Deposit Insurance Corporation if the national bank is an insured bank (as defined in section 1813(h) of this title)) if the Comptroller determines, in the Comptroller's discretion, that—

- (1) 1 or more of the grounds specified in section 1821(c)(5) of this title exist; or
- (2) the association's board of directors consists of fewer than 5 members.

(b) Judicial review

If the Comptroller of the Currency appoints a receiver under subsection (a), the national bank may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller of the Currency to remove the receiver, and the court shall, upon the merits, dismiss such action or direct the Comptroller of the Currency to remove the receiver.

(June 30, 1876, ch. 156, §2, formerly §1, 19 Stat. 63; Pub. L. 86–230, §16, Sept. 8, 1959, 73 Stat. 458; Pub. L. 102–242, title I, §133(b), Dec. 19, 1991, 105 Stat. 2271; renumbered §2 and amended Pub. L. 102–550, title XVI, §1603(d)(6), (7), Oct. 28, 1992, 106 Stat. 4080; Pub. L. 109–351, title VII, §701(a), Oct. 13, 2006, 120 Stat. 1984.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2 of act June 30, 1876, was classified to section 65 of this title, prior to repeal by Pub. L. 86–230, §8, Sept. 8, 1959, 73 Stat. 457.

AMENDMENTS

2006—Pub. L. 109–351, §701(a)(1), which directed the general amendment of the section catchline by replacing it with "Appointment of receiver for a national bank" followed by "(a) In general" and the words "The Comptroller of the Currency", was executed by inserting the new catchline and the subsec. (a) designation and heading but not the words "The Comptroller of the Currency" which already appeared in text, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 109–351, §701(a)(2), added subsec. (b).

1992—Pub. L. 102–550, §1603(d)(7)(B), substituted "appoint a receiver for any national bank (and such receiver shall be the Federal Deposit Insurance Corporation if the national bank is an insured bank (as defined in section 1813(h) of this title))" for "appoint the Federal Deposit Insurance Corporation as receiver for any

national banking association" in introductory provisions.

Pub. L. 102-550, §1603(d)(6), amended directory language of Pub. L. 102-242, §133(b). See 1991 Amendment note below.

1991—Pub. L. 102-242, §133(b), as amended by Pub. L. 102-550, §1603(d)(6), amended section generally. Prior to amendment, section read as follows: "Whenever any national banking association shall be dissolved, and its rights, privileges, and franchises declared forfeited, as prescribed in section 93 of this title, or whenever any creditor of any national banking association shall have obtained a judgment against it in any court of record, and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the comptroller shall become satisfied of the insolvency of a national banking association, he may, after due examination of its affairs, in either case, appoint a receiver, who shall proceed to close up such association."

1959—Pub. L. 86-230 struck out provisions which required receiver to enforce the personal liability of shareholders.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-351, title VII, §701(c), Oct. 13, 2006, 120 Stat. 1985, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1821 of this title] shall apply with respect to conservators or receivers appointed on or after the date of enactment of this Act [Oct. 13, 2006]."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-550, title XVI, §1609, Oct. 28, 1992, 106 Stat. 4090, provided that:

"(a) **IN GENERAL.**—Except as provided in subsection (b) or any other provision of this subtitle [subtitle A (§§1601-1609) of title XVI of Pub. L. 102-550, see Tables for classification], the amendments made by this subtitle to the Federal Deposit Insurance Corporation Improvement Act of 1991, the Federal Deposit Insurance Act, and any other law shall take effect as if such amendments had been included in the Federal Deposit Insurance Corporation Improvement Act of 1991 [Pub. L. 102-242] as of the date of the enactment of such Act [Dec. 19, 1991].

"(b) **EFFECTIVE DATE OF CERTAIN AMENDMENTS.**—In the case of any amendment made by this subtitle to any provision of law added or amended by the Federal Deposit Insurance Corporation Improvement Act of 1991 [see Tables for classification] effective after December 19, 1992, the amendment made by this subtitle shall take effect on the effective date of the amendment made by the Federal Deposit Insurance Corporation Improvement Act of 1991."

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-242, title I, §133(g), Dec. 19, 1991, 105 Stat. 2273, provided that: "The amendments made by this section [amending this section and sections 203, 248, 1464, and 1821 of this title] shall become effective 1 year after the date of enactment of this Act [Dec. 19, 1991]."

SHORT TITLE

Act June 30, 1876, ch. 156, §1, as added by Pub. L. 102-550, title XVI, §1603(d)(7)(A), Oct. 28, 1992, 106 Stat. 4080, provided that: "This Act [enacting this section, sections 65 and 197 of this title, and section 424 of former Title 31, Money and Finance, and amending section 55 of this title] may be cited as the 'National Bank Receivership Act'."

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

TERMINATION OF NATIONAL BANK CLOSED RECEIVERSHIP FUND

Pub. L. 96-221, title VII, §§721-723, Mar. 31, 1980, 94 Stat. 190, 191, as amended Pub. L. 97-320, title IV, §409, Oct. 15, 1982, 96 Stat. 1515, provided that:

"SEC. 721. The purpose of this part [enacting this provision] is to terminate the closed receivership fund by—

"(1) providing final notice of availability of liquidating dividends to creditors of national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation;

"(2) barring rights of creditors to collect liquidating dividends from the Comptroller of the Currency after a reasonable period of time following such final notice; and

"(3) refunding to the Comptroller the principal amount of such fund and any income earned thereon.
"SEC. 722. For purposes of this part—

"(1) the term 'closed receivership fund' means the aggregation of undisbursed liquidating dividends from national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation, held by the Comptroller in his capacity as successor to receivers of those banks;

"(2) the term 'Comptroller' means the Comptroller of the Currency;

"(3) the term 'claimant' means a depositor or other creditor who asserts a claim against a closed national bank for a liquidating dividend; and

"(4) the term 'liquidating dividend' means an amount of money in the closed receivership fund determined by a receiver of a closed national bank or by the Comptroller to be owed by that bank to a depositor or other creditor.

"SEC. 723. (a) The Comptroller shall publish notice once a week for four weeks in the Federal Register that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the closed receivership fund shall be barred after twelve months following the last date of publication of such notice.

"(b) The Comptroller shall pay the principal amount of a liquidating dividend, exclusive of any income earned thereon, to a claimant presenting a valid claim, if the claimant applies to collect within twelve months following the last date notice is published.

"(c) If a creditor shall fail to apply to collect a liquidating dividend within twelve months after the last date notice is published, all rights of the claimant against the closed receivership fund with respect to the liquidating dividend shall be barred.

"(d) The principal amount of any liquidating dividends (1) for which claims have not been asserted within twelve months following the last date notice is published or (2) for which the Comptroller has determined a valid claim has not been submitted shall, together with any income earned on liquidating dividends and other moneys, if any, remaining in the closed receivership fund, be covered into the general funds of the Comptroller."

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.

§192. Default in payment of circulating notes

On becoming satisfied, as specified in sections 131 and 132 ¹ of this title, that any association is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he deems proper. Such receiver, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court shall direct. Such receiver shall pay over all money so made to the Treasurer of the United States, subject to the order of the Comptroller, and also make report to the Comptroller of all his acts and proceedings.

Provided, That the Comptroller may, if he deems proper, deposit any of the money so made in any regular Government depository, or in any State or national bank either of the city or town in which the insolvent bank was located, or of a city or town as adjacent thereto as practicable; if such deposit is made he shall require the depository to deposit United States bonds or other satisfactory securities with the Treasurer of the United States for the safekeeping and prompt payment of the money so deposited: *Provided*, That no security in the form of deposit of United States bonds, or otherwise, shall be required in the case of such parts of the deposits as are insured under section 12B of the Federal Reserve Act, as amended. Such depository shall pay upon such money interest at such rate as

the Comptroller may prescribe, not less, however, than 2 per centum per annum upon the average monthly amount of such deposits.

(R.S. §5234; May 15, 1916, ch. 121, 39 Stat. 121; Aug. 23, 1935, ch. 614, title III, §339, 49 Stat. 721; Pub. L. 86–230, §17, Sept. 8, 1959, 73 Stat. 458; Pub. L. 103–325, title VI, §602(g)(11), Sept. 23, 1994, 108 Stat. 2294.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 131 and 132 of this title, referred to in text, were repealed by Pub. L. 103–325, title VI, §602(e)(14), (15), Sept. 23, 1994, 108 Stat. 2292.

Section 12B of the Federal Reserve Act, as amended, referred to in text, formerly classified to section 264 of this title, has been withdrawn from the Federal Reserve Act and incorporated in the Federal Deposit Insurance Act which is classified generally to chapter 16 (§1811 et seq.) of this title.

CODIFICATION

R.S. §5234 derived from act June 3, 1864, ch. 106, §50, 13 Stat. 114, which was part of the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103–325 struck out "has refused to pay its circulating notes as therein mentioned, and" before "is in default".

1959—Pub. L. 86–230 struck out provisions which required receiver to enforce the personal liability of shareholders.

1935—Act Aug. 23, 1935, inserted second proviso in second par.

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

INTEREST ON DEPOSITS

So much of existing law requiring the payment of interest with respect to any funds deposited by the United States or by any public instrumentality, agency, or officer thereof, as is inconsistent with former section 371a, sections 371b, 374, 374a, and 461, former sections 462 to 465, and section 466 of this title, repealed, see former section 371a of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

[¹ See References in Text note below.](#)

§193. Notice to present claims

The Comptroller shall, upon appointing a receiver, cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof.

(R.S. §5235.)

EDITORIAL NOTES

CODIFICATION

R.S. §5235 derived from act June 3, 1864, ch. 106, §50, 13 Stat. 114, which was part of the National Bank Act. See section 38 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

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.

§194. Dividends on adjusted claims; distribution of assets

From time to time, the comptroller shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and, as the proceeds of the assets of such association are paid over to him, shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held.

(R.S. §5236; Pub. L. 103–325, title VI, §602(g)(12), Sept. 23, 1994, 108 Stat. 2294.)

EDITORIAL NOTES

CODIFICATION

R.S. §5236 derived from act June 3, 1864, ch. 106, §50, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103–325 struck out ", after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association" after "From time to time".

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc. in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

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.

§195. Repealed. Pub. L. 103–325, title VI, §602(e)(36), Sept. 23, 1994, 108 Stat. 2292

Section, R.S. §5237; Mar. 3, 1911, ch. 231, §289, 36 Stat. 1167, related to injunction by bank denying

failure to redeem notes.

§196. Expenses

All expenses of any preliminary or other examinations into the condition of any association shall be paid by such association. All expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

(R.S. §5238; Pub. L. 103-325, title VI, §602(g)(13), Sept. 23, 1994, 108 Stat. 2294.)

EDITORIAL NOTES

CODIFICATION

R.S. §5238 derived from act June 3, 1864, ch. 106, §51, 13 Stat. 115, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103-325 struck out at beginning "All fees for protesting the notes issued by any national banking association shall be paid by the person procuring the protest to be made, and such association shall be liable therefor; but no part of the bonds deposited by such association shall be applied to the payment of such fees."

§197. Shareholders' meeting; continuance of receivership; appointment of agent; winding up business; distribution of assets

(a) Whenever any national banking association shall have been or shall be placed in the hands of a receiver, as provided in section fifty-two hundred and thirty-four [12 U.S.C. 192] and other sections of the Revised Statutes of the United States and section 1821(c) of this title, and when, as provided in section 194 of this title, there has been paid to each and every creditor of such association whose claim or claims as such creditor shall have been proved or allowed as therein prescribed, the full amount of such claims, and all expenses of the receivership, the Comptroller of the Currency or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the bank, shall call a meeting of the shareholders of the association by giving notice thereof for thirty days in a newspaper published in the town, city, or county where the business of the association was carried on, or if no newspaper is there published, in the newspaper published nearest thereto. At such meeting the shareholders shall determine whether the receiver shall be continued and shall wind up the affairs of the association, or whether an agent shall be elected for that purpose, and in so determining the shareholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock in number of shares shall be necessary to determine whether the receiver shall be continued, or whether an agent shall be elected. In case such majority shall determine that the receiver shall be continued, the receiver shall thereupon proceed with the execution of the trust, and shall sell, dispose of, or otherwise collect the assets of the association, and shall possess all the powers and authority, and be subject to all the duties and liabilities originally conferred or imposed upon such receiver so far as they remain applicable. In case such meeting shall, by the vote of a majority of the stock in number of shares, determine that an agent shall be elected, the meeting shall thereupon proceed to elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the person who shall receive votes representing at least a majority of stock in number of shares shall be declared the agent for the purposes hereinafter provided; and when such agent shall have executed a bond to the shareholders conditioned for the payment and discharge in full or, to the extent possible from the remaining assets of the association, of each and every claim that may thereafter be proved and allowed by and before a competent court and for the faithful performance of his duties, in the penalty fixed by the shareholders at such meeting, with a surety or sureties to be approved by the district

court of the United States for the district where the business of the association was carried on, and shall have filed such bond in the office of the clerk of such court, the Comptroller and the receiver, or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the bank, shall thereupon transfer and deliver to such agent all the uncollected or other assets of the association then remaining in the hands or subject to the order and control of the Comptroller and such receiver, or either of them, or the Federal Deposit Insurance Corporation; and for this purpose the Comptroller and such receiver, or the Federal Deposit Insurance Corporation, as the case may be, are severally empowered and directed to execute any deed, assignment, transfer, or other instrument in writing that may be necessary and proper; and upon the execution and delivery of such instrument to such agent the Comptroller and such receiver or the Federal Deposit Insurance Corporation shall by virtue of this Act be discharged from any and all liabilities to the association and to each and all the creditors and shareholders thereof.

(b) Upon receiving such deed, assignment, transfer, or other instrument the person elected such agent shall hold, control, and dispose of the assets and property of the association which he may receive under the terms hereof for the benefit of the shareholders of the association, and he may in his own name, or in the name of the association, sue and be sued and do all other lawful acts and things necessary to finally settle and distribute the assets and property in his hands, and may sell, compromise, or compound the debts due to the association, with the consent and approval of the district court of the United States for the district where the business of the association was carried on, and shall at the conclusion of his trust render to such district court a full account of all his proceedings, receipts, and expenditures as such agent, which court shall, upon due notice, settle and adjust such accounts and discharge such agent and sureties upon such bond. In case any such agent so elected shall die, resign, or be removed, any shareholder may call a meeting of the shareholders of the association in the town, city, or village where the business of the association was carried on, by giving notice thereof for thirty days in a newspaper published in such town, city, or village, or if no newspaper is there published, in the newspaper published nearest thereto, at which meeting the shareholders shall elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and when such agent shall have received votes representing at least a majority of the stock in number of shares, and shall have executed a bond to the shareholders conditioned for the payment and discharge in full or, to the extent possible from the remaining assets of the association, of each and every claim that may thereafter be proved and allowed by and before a competent court and for the faithful performance of his duties, in the penalty fixed by the shareholders at such meeting, with a surety or sureties, to be approved by such court, and file such bond in the office of the clerk of that court, he shall have all the rights, powers, and duties of the agent first elected as hereinbefore provided. At any meeting held as hereinbefore provided administrators or executors of deceased shareholders may act and sign as the decedent might have done if living, and guardians of minors and trustees of other persons may so act and sign for their ward or wards or cestui que trust. The proceeds of the assets or property of any such association which may be undistributed at the time of such meeting or may be subsequently received shall be distributed as follows:

First. To pay the expenses of the execution of the trust to the date of such payment.

Second. To repay any amount or amounts which have been paid in by any shareholder or shareholders of the association upon and by reason of any and all assessments made upon the stock of the association by order of the Comptroller of the Currency in accordance with the provisions of the statutes of the United States.

Third. To pay the balance ratably among such stockholders, in proportion to the number of shares held and owned by each. Such distribution shall be made from time to time as the proceeds shall be received and as shall be deemed advisable by the Comptroller of the Currency, or the Federal Deposit Insurance Corporation if continued as receiver of the bank under subsection (a) of this section, or such agent, as the case may be.

(June 30, 1876, ch. 156, §3, 19 Stat. 63; Aug. 3, 1892, ch. 360, 27 Stat. 345; Mar. 2, 1897, ch. 354, 29 Stat. 600; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Pub. L. 86-230, §18, Sept. 8, 1959, 73 Stat. 458.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section fifty-two hundred and thirty-four and other sections of the Revised Statutes of the United States, referred to in subsec. (a), are classified to section 192 of this title and other sections of the Code. See Tables.

This Act, referred to in subsec. (a), is act June 30, 1876, ch. 156, 19 Stat. 63, sections 1 to 4 of which are classified as a note under section 191 of this title and to section 191 of this title, this section, and section 55 of this title, respectively. Section 5 of the Act, which was classified to section 424 of former Title 31, was repealed and reenacted as section 5153 of Title 31, Money and Finance, by Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

1959—Subsec. (a). Pub. L. 86-230 designated former first par., less last sentence, as subsec. (a), and incorporated references to Federal Deposit Insurance Corporation respecting receiverships under section 1821(c) of this title, convocation of shareholders, transfer of assets, execution of instruments and discharge from liability, omitted provision for deposit of money with the Treasurer of the United States for the redemption of the circulating notes of the association, and for the value of shares as a test to determine whether a majority vote has been cast in a stockholders' meeting, required the windup agent to file a bond to the shareholders in an amount satisfactory to them with sureties approved by appropriate district court instead of a bond from the shareholders satisfactory to the Comptroller and to condition the bond to payment of proved claims to the extent possible from the remaining instead of payment of the claims in full, only.

Subsec. (b). Pub. L. 86-230 designated former last sentence of first par. and second par., as subsec. (b), and omitted provisions which related to refusal of agent to serve as a ground for the calling of an election of another agent, to the value of shares as a test to determine whether a majority vote has been cast in a stockholders' meeting, required the bond of the windup agent to be conditioned for payment of proved claims to the extent possible from the remaining assets instead of payment of the claims in full, only, and provided for the distribution of the balance as shall be deemed advisable by the Federal Deposit Insurance Corporation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Act Mar. 3, 1911, conferred upon the district courts all powers formerly vested in the former circuit courts.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

EXECUTIVE DOCUMENTS

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 Exception as to Transfer of Functions note set out under section 1 of this title.

§197a. Resumption of business by closed bank on consent of depositors

In any case in which, in the opinion of the Comptroller of the Currency, it would be to the advantage of the depositors and unsecured creditors of any national banking association whose business has been closed, for such association to resume business upon the retention by the association, for a reasonable period to be prescribed by the Comptroller, of all or any part of its deposits, the Comptroller is authorized, in his discretion, to permit the association to resume business if depositors and unsecured creditors of the association representing at least 75 per centum of its total deposit and unsecured credit liabilities consent in writing to such retention of deposits. Nothing in this section shall be construed to affect in any manner any powers of the Comptroller under the

provisions of law in force on June 16, 1933, with respect to the reorganization of national banking associations.

(June 16, 1933, ch. 89, §29, 48 Stat. 193.)

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.

§198. Purchase by receiver of property of bank; request to Comptroller

Whenever the receiver of any national bank duly appointed by the Comptroller of the Currency, and who shall have duly qualified and entered upon the discharge of his trust, shall find it in his opinion necessary, in order to fully protect and benefit his said trust, to the extent of any and all equities that such trust may have in any property, real or personal, by reason of any bond, mortgage, assignment, or other proper legal claim attaching thereto, and which said property is to be sold under any execution, decree of foreclosure, or proper order of any court of jurisdiction, he may certify the facts in the case, together with his opinion as to the value of the property to be sold, and the value of the equity his said trust may have in the same, to the Comptroller of the Currency, together with a request for the right and authority to use and employ so much of the money of said trust as may be necessary to purchase such property at such sale.

(Mar. 29, 1886, ch. 28, §1, 24 Stat. 8.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

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.

§199. Approval of request

Such request, if approved by the Comptroller of the Currency, shall be, together with the certificate of facts in the case, and his recommendation as to the amount of money which, in his judgment, should be so used and employed, submitted to the Secretary of the Treasury, and if the same shall likewise be approved by him, the request shall be by the Comptroller of the Currency allowed, and notice thereof, with copies of the request, certificate of facts, and indorsement of approvals, shall be filed with the Treasurer of the United States.

(Mar. 29, 1886, ch. 28, §2, 24 Stat. 8.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

§200. Payment

Whenever any such request shall be allowed as hereinbefore provided, the said Comptroller of the Currency shall be, and is, empowered to draw upon and from such funds of any such trust as may be deposited with the Treasurer of the United States for the benefit of the bank in interest, to the amount as may be recommended and allowed and for the purpose for which such allowance was made:

Provided, however, That all payments to be made for or on account of the purchase of any such property and under any such allowance shall be made by the Comptroller of the Currency direct, with the approval of the Secretary of the Treasury, for such purpose only and in such manner as he may determine and order.

(Mar. 29, 1886, ch. 28, §3, 24 Stat. 8.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

SUBCHAPTER XIV—BANK CONSERVATION ACT

§201. Short title

This subchapter may be cited as the "Bank Conservation Act."

(Mar. 9, 1933, ch. 1, title II, §201, 48 Stat. 2.)

§202. Definitions

As used in this subchapter, the term "bank" means any national banking association or any other financial institution chartered or licensed under Federal law and subject to the supervision of the Comptroller of the Currency; the term "voluntary dissolution and liquidation" means a transaction pursuant to section 181 of this title that involves the assumption of the bank's insured deposit liabilities and the sale of the bank, or of control of the bank, as a going concern; and the term "State" means any State, Territory, or possession of the United States, and the Canal Zone.

(Mar. 9, 1933, ch. 1, title II, §202, 48 Stat. 2; Pub. L. 101–73, title VIII, §801, Aug. 9, 1989, 103 Stat. 441; Pub. L. 109–351, title VII, §725(b), Oct. 13, 2006, 120 Stat. 2001; Pub. L. 109–356, title I, §123(b), Oct. 16, 2006, 120 Stat. 2028.)

EDITORIAL NOTES

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2006—Pub. L. 109–351 and 109–356 amended section identically, substituting "means any national" for "means (1) any national" and striking out ", and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency" before first semicolon.

1989—Pub. L. 101–73, §801(1), in cl. (1), extended term "bank" to include any financial institution chartered or licensed under Federal law and subject to supervision of Comptroller of the Currency.

Pub. L. 101–73, §801(2), in cl. (2), inserted definition of term "voluntary dissolution and liquidation".

§203. Appointment of conservator

(a) Appointment

The Comptroller of the Currency may, without prior notice or hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller of the Currency determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act [12 U.S.C. 1821(c)(5)] exist.

(b) Judicial review

(1) In general

Not later than 20 days after the initial appointment of a conservator pursuant to this section, the bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller to terminate the appointment of the conservator, and the court, upon the merits, shall dismiss such action or shall direct the Comptroller to terminate the appointment of such conservator. The Comptroller's decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Stay

The conservator may request that any judicial action or proceeding to which the conservator or the bank is or may become a party be stayed for a period of up to 45 days after the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

(3) Actions and orders

Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of a conservator. A court, upon application by the Comptroller, shall have jurisdiction to enforce an order of the Comptroller relating to—

- (A) the conservatorship and the bank in conservatorship, or
- (B) restraining or affecting the exercise of powers or functions of a conservator.

(c) Additional grounds for appointment

In addition to the foregoing provisions, the Comptroller may appoint a conservator for a bank if—

- (1) the bank, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment, or
- (2) the Federal Deposit Insurance Corporation terminates the bank's status as an insured bank.

The appointment of a conservator pursuant to this subsection shall not be subject to review.

(d) Exclusive authority

The Comptroller shall have exclusive power and jurisdiction to appoint a conservator for a bank. Whenever the Comptroller appoints a conservator for any bank, the Comptroller may appoint the Federal Deposit Insurance Corporation conservator for such bank. The Federal Deposit Insurance Corporation, as such conservator, shall have all the powers granted under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators of banks under this Act and any other provision of law. The Comptroller may also appoint another person as conservator, who shall be subject to the provisions of this Act.

(e) Replacement of conservator

The Comptroller may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the bank's right under subsection (b) to obtain judicial review of the Comptroller's original decision to appoint a conservator.

(Mar. 9, 1933, ch. 1, title II, §203, 48 Stat. 2; Pub. L. 101–73, title VIII, §802, Aug. 9, 1989, 103 Stat. 442; Pub. L. 102–242, title I, §133(c), Dec. 19, 1991, 105 Stat. 2271.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (d), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

This Act, referred to in subsec. (d), is act Mar. 9, 1933, ch. 1, 48 Stat. 1, popularly known as the Emergency Banking and Bank Conservation Act, which is classified to sections 51a, 51b, 51c, 51d, 95, 201 to 212, 248, 347b, 347c, 347d, 445 of this title and to section 4305 of Title 50, War and National Defense, and classified as a note under section 4305 of Title 50.

Section 51d of this title was repealed by act June 30, 1947, ch. 166, title II, §206(b), (o), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see References in Text note set out under section 51b–1 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–242 amended subsec. (a) generally, substituting present provisions for provisions which specified circumstances under which Comptroller could appoint conservator.

1989—Pub. L. 101–73 amended section generally, changing structure of section from a single unlettered paragraph to one consisting of subsections (a) to (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–242 effective 1 year after Dec. 19, 1991, see section 133(g) of Pub. L. 102–242, set out as a note under section 191 of this title.

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.

CONSERVATORS OF STATE BANKS

Ex. Ord. No. 6080, Mar. 18, 1933, provided for appointment of conservators of State banks under certain regulations.

§204. Examinations

The Comptroller of the Currency (in consultation with the Board of Directors of the Federal

Deposit Insurance Corporation when the Corporation is appointed conservator) is authorized to examine and supervise the bank in conservatorship as long as the bank continues to operate as a going concern. The Comptroller may use reports and other information provided by the Federal Deposit Insurance Corporation for this purpose.

(Mar. 9, 1933, ch. 1, title II, §204, 48 Stat. 3; Pub. L. 101-73, title VIII, §803, Aug. 9, 1989, 103 Stat. 443.)

EDITORIAL NOTES

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: "The Comptroller of the Currency shall cause to be made such examinations of the affairs of such bank as shall be necessary to inform him as to the financial condition of such bank, and the examiner shall make a report thereon to the Comptroller of the Currency at the earliest practicable date."

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.

§205. Termination of conservatorship

(a) General rule

At any time the Comptroller ¹ becomes satisfied that it may safely be done and that it would be in the public interest, the Comptroller (with the agreement of the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation has been appointed conservator) may—

- (1) terminate the conservatorship and permit the involved bank to resume the transaction of its business subject to such terms, conditions, and limitations as the Comptroller may prescribe; or
- (2) terminate the conservatorship upon a sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation of the involved bank.

(b) Other grounds for termination

The Comptroller also may terminate the conservatorship upon the appointment of a receiver pursuant to section 191 of this title.

(c) Enforcement under Federal Deposit Insurance Act

Such terms, conditions, and limitations as may be prescribed under subsection (a)(1) shall be enforceable under the provisions of section 8(i) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)], to the same extent as an order issued pursuant to section 8(b) of the Federal Deposit Insurance Act [12 U.S.C. 1818(b)] which has become final. The bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located or in the United States District Court for the District of Columbia for an order requiring the Comptroller to terminate the order. An action for judicial review of the terms, conditions, and limitations may not be commenced later than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

(d) Action upon termination

(1) In general

Upon termination of the conservatorship under subsection (a)(2), the Federal Deposit Insurance Corporation, as conservator, or when another person is appointed conservator, such other person, shall conclude the affairs of the conservatorship in accordance with paragraph (2).

(2) Deposit and distribution of proceeds

(A) Within 180 days of the sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation, the conservator shall deposit all net proceeds received from the transaction, less any outstanding expenses of the conservatorship, with the United States district court for the judicial district in which the home office of such bank is located and shall cause notice to be published for three consecutive months and notify by mail all known and remaining creditors and shareholders. Within 60 days thereafter, any depositor, creditor, or other claimant of the bank, or any shareholder of the bank may bring an action in interpleader in that court for distribution of the proceeds. The district court shall distribute such funds equitably. If no such action is instituted within one year after the date the funds are deposited with the district court, title to such net proceeds shall revert to the United States and the district court shall remit the funds to the Treasury of the United States.

(B) The conservator shall be deemed to have discharged all responsibility of the conservatorship upon the deposit of the proceeds with the district court and giving the required notifications.

(Mar. 9, 1933, ch. 1, title II, §205, 48 Stat. 3; Pub. L. 101–73, title VIII, §804, Aug. 9, 1989, 103 Stat. 443.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (c), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

1989—Pub. L. 101–73 amended section generally. Prior to amendment, section read as follows: "If the Comptroller of the Currency becomes satisfied that it may safely be done and that it would be in the public interest, he may, in his discretion, terminate the conservatorship and permit such bank to resume the transaction of its business subject to such terms, conditions, restrictions and limitations as he may prescribe."

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.

¹ So in original. Probably should be "Comptroller of the Currency".

§206. Conservator; powers and duties

(a) General powers

A conservator shall have all the powers of the shareholders, directors, and officers of the bank and may operate the bank in its own name unless the Comptroller ¹ in the order of appointment limits the conservator's authority.

(b) Subject to rules of Comptroller

The conservator shall be subject to such rules, regulations, and orders as the Comptroller from time to time deems appropriate; and, except as otherwise specifically provided in such rules, regulations, or orders or in section 209 of this title, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to directors, officers, or employees of a national bank.

(c) Payment of depositors and creditors

The Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors such amounts as in the opinion of the Comptroller may safely be used for that purpose. All depositors and creditors who are similarly situated shall be treated in the same manner.

(d) Compensation of conservator and employees

The conservator and professional employees appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Comptroller of the Currency may authorize payment at higher rates (but not in excess of rates prevailing in the private sector), if the Comptroller determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

(e) Expenses

All expenses of any such conservatorship shall be paid by the bank and shall be a lien upon the bank which shall be prior to any other lien.

(Mar. 9, 1933, ch. 1, title II, §206, 48 Stat. 3; Pub. L. 101-73, title VIII, §805, Aug. 9, 1989, 103 Stat. 445.)

EDITORIAL NOTES

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: "While such bank is in the hands of the conservator appointed by the Comptroller of the Currency, the Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the Comptroller may safely be used for this purpose; and the Comptroller may, in his discretion, permit the conservator to receive deposits, but deposits received while the bank is in the hands of the conservator shall not be subject to any limitation as to payment or withdrawal, and such deposits shall be segregated and shall not be used to liquidate any indebtedness of such bank existing at the time that a conservator was appointed for it, or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such bank existing at the time such conservator was appointed. Such deposits received while the bank is in the hands of the conservator shall be kept on hand in cash, invested in the direct obligations of the United States, or deposited with a Federal reserve bank. The Federal reserve banks are authorized to open and maintain separate deposit accounts for such purpose, or for the purpose of receiving deposits from State officials in charge of State banks under similar circumstances."

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.

¹ So in original. Probably should be "Comptroller of the Currency".

§§207, 208. Repealed. Pub. L. 101-73, title VIII, §808, Aug. 9, 1989, 103 Stat. 446

Section 207, acts Mar. 9, 1933, ch. 1, title II, §207, 48 Stat. 3; May 20, 1933, ch. 34, 48 Stat. 72, prescribed conditions for reorganization of banks, requiring consent of depositors and other creditors, of stockholders, or of both depositors and other creditors and stockholders, namely that the reorganization plan be fair and equitable to depositors, other creditors, and stockholders and be in the public interest; that the plan be consented to in writing; and that the approved plan be binding on all consenting or nonconsenting depositors, creditors, and stockholders.

Section 208, act Mar. 9, 1933, ch. 1, title II, §208, 48 Stat. 4, made the provisions for segregation of deposits inapplicable after termination of conservatorship, and provided for termination of conservatorship after publication of notice of termination and mailing of a copy of such notice by registered mail to depositors

of record.

§209. Liability protection

(a) Federal agency and employees

In any case in which the conservator is a Federal agency or an employee of the Government, the provisions of chapters 161 and 171 of title 28 shall apply with respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) Other conservators

In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

(c) Indemnification

The Comptroller ¹ shall have authority to indemnify the conservator on such terms as the Comptroller deems proper.

(Mar. 9, 1933, ch. 1, title II, §209, 48 Stat. 5; Sept. 3, 1954, ch. 1263, §23, 68 Stat. 1234; Pub. L. 101-73, title VIII, §806, Aug. 9, 1989, 103 Stat. 445.)

EDITORIAL NOTES

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows:

"Conservators appointed pursuant to the provisions of this subchapter shall be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of title 18; and sections 202, 216, 281, 431, 432, and 433 of title 18, in so far as applicable, are extended to apply to contracts, agreements, proceedings, dealings, claims and controversies by or with any such conservator or the Comptroller of the Currency under the provisions of this subchapter."

1954—Act Sept. 3, 1954, corrected references to title 18.

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.

¹ *So in original. Probably should be "Comptroller of the Currency".*

§210. Governmental powers unimpaired

Nothing in this subchapter shall be construed to impair in any manner any powers of the President, the Secretary of the Treasury, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System.

(Mar. 9, 1933, ch. 1, title II, §210, 48 Stat. 5; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Act Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704, changed the name of the 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.

§211. Rules and regulations

(a) In general

The Comptroller of the Currency may prescribe such rules and regulations as the Comptroller may deem necessary to carry out the provisions of this Act.

(b) F.D.I.C. as conservator

In any case in which the Federal Deposit Insurance Corporation is the conservator, any rules or regulations prescribed by the Comptroller shall be consistent with any rules and regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(Mar. 9, 1933, ch. 1, title II, §211, 48 Stat. 5; Pub. L. 101–73, title VIII, §807, Aug. 9, 1989, 103 Stat. 446.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Mar. 9, 1933, ch. 1, 48 Stat. 1, popularly known as the Emergency Banking and Bank Conservation Act, which is classified to sections 51a, 51b, 51c, 51d, 95, 201 to 212, 248, 347b, 347c, 347d, and 445 of this title and section 4305 of Title 50, War and National Defense, and classified as a note under section 4305 of Title 50.

Section 51d of this title was repealed by act June 30, 1947, ch. 166, title II, §206(b), (o), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see References in Text note set out under section 51b–1 of this title.

The Federal Deposit Insurance Act, referred to in subsec. (b), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

1989—Pub. L. 101–73 amended section generally. Prior to amendment, section read as follows: "The Comptroller of the Currency is authorized and empowered, with the approval of the Secretary of the Treasury, to prescribe such rules and regulations as he may deem necessary in order to carry out the provisions of this subchapter. Whoever violates any rule or regulation made pursuant to this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than one year, or both."

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.

§212. Right to amend; separability

The right to alter, amend, or repeal this Act is expressly reserved. If any provision of this Act, or

the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(Mar. 9, 1933, ch. 1, title V, §502, 48 Stat. 7.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 9, 1933, ch. 1, 48 Stat. 1, popularly known as the Emergency Banking and Bank Conservation Act, which is classified to sections 51a, 51b, 51c, 51d, 95, 201 to 212, 248, 347b, 347c, 347d, and 445 of this title and section 4305 of Title 50, War and National Defense, and classified as a note under section 4305 of Title 50.

Section 51d of this title was repealed by act June 30, 1947, ch. 166, title II, §206(b), (o), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see References in Text note set out under section 51b-1 of this title.

CODIFICATION

This section was not enacted as part of title II of act Mar. 9, 1933, ch. 1, 48 Stat. 2, which comprises this subchapter.

§213. Transferred

EDITORIAL NOTES

CODIFICATION

Section, act Jan. 30, 1934, ch. 6, §13, 48 Stat. 343, relating to ratification of acts of the President and Secretary of the Treasury, was transferred to section 824 of former Title 31, and subsequently repealed by Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

SUBCHAPTER XV—CONVERSION OF NATIONAL BANKS INTO STATE BANKS

§214. Definitions

(a) As used in this subchapter and section 321 of this title the term "State bank" means any bank, banking association, trust company, savings bank (other than a mutual savings bank), or other banking institution which is engaged in the business of receiving deposits and which is incorporated under the laws of any State, any Territory of the United States, Puerto Rico, or the Virgin Islands, or which is operating under the Code of Law for the District of Columbia.

(b) For purposes of merger or consolidation under this subchapter and section 321 of this title the term "national banking association" means one or more national banking associations, and the term "State bank" means one or more State banks.

(Aug. 17, 1950, ch. 729, §1, 64 Stat. 455; Sept. 3, 1954, ch. 1263, §24, 68 Stat. 1234; Pub. L. 109-351, title VII, §725(f), Oct. 13, 2006, 120 Stat. 2002; Pub. L. 109-356, title I, §123(f), Oct. 16, 2006, 120 Stat. 2029.)

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-351 and 109-356 amended subsec. (a) identically, striking out "(except a

national banking association)" before period at end.

1954—Act Sept. 3, 1954, substituted "this subchapter and section 321 of this title" for "sections 214 to 214c, 264(e)(2), (i)(2), (v)(4), and 321 of this title" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SEPARABILITY

Act Aug. 17, 1950, ch. 729, §9, 64 Stat. 458, provided that: "If any provision of this Act [enacting this subchapter and amending of sections 264 and 321 of this title], or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby."

§214a. Procedure for conversion, merger, or consolidation; vote of stockholders

A national banking association may, by vote of the holders of at least two-thirds of each class of its capital stock, convert into, or merge or consolidate with, a State bank in the same State in which the national banking association is located, under a State charter, in the following manner:

(a) Approval of board of directors; publication of notice of stockholders' meeting; waiver of publication; notice by registered or certified mail

The plan of conversion, merger, or consolidation must be approved by a majority of the entire board of directors of the national banking association. The bank shall publish notice of the time, place, and object of the shareholders' meeting to act upon the plan, in some newspaper with general circulation in the place where the principal office of the national banking association is located, at least once a week for four consecutive weeks: *Provided*, That newspaper publication may be dispensed with entirely if waived by all the shareholders and in the case of a merger or consolidation one publication at least ten days before the meeting shall be sufficient if publication for four weeks is waived by holders of at least two-thirds of each class of capital stock and prior written consent of the Comptroller of the Currency is obtained. The national banking association shall send such notice to each shareholder of record by registered mail or by certified mail at least ten days prior to the meeting, which notice may be waived specifically by any shareholder.

(b) Rights of dissenting stockholders

A shareholder of a national banking association who votes against the conversion, merger, or consolidation, or who has given notice in writing to the bank at or prior to such meeting that he dissents from the plan, shall be entitled to receive in cash the value of the shares held by him, if and when the conversion, merger, or consolidation is consummated, upon written request made to the resulting State bank at any time before thirty days after the date of consummation of such conversion, merger, or consolidation, accompanied by the surrender of his stock certificates. The value of such shares shall be determined as of the date on which the shareholders' meeting was held authorizing the conversion, merger, or consolidation, by a committee of three persons, one to be selected by majority vote of the dissenting shareholders entitled to receive the value of their shares, one by the directors of the resulting State bank, and the third by the two so chosen. The valuation agreed upon by any two of three appraisers thus chosen shall govern; but, if the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment as provided herein, such shareholder may within five days after being notified of the appraised value of his shares appeal to the Comptroller of the Currency, who shall cause a reappraisal to be made, which shall be final and binding as to the value of the shares of the appellant. If, within ninety days from the date of consummation of the conversion, merger, or consolidation, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party, cause an appraisal to be made, which shall be final and binding on all parties. The expenses of the Comptroller in making the

reappraisal, or the appraisal as the case may be, shall be paid by the resulting State bank. The plan of conversion, merger, or consolidation shall provide the manner of disposing of the shares of the resulting State bank not taken by the dissenting shareholders of the national banking association.

(Aug. 17, 1950, ch. 729, §2, 64 Stat. 455; Pub. L. 86-507, §1(10), June 11, 1960, 74 Stat. 200; Pub. L. 96-221, title VII, §706, Mar. 31, 1980, 94 Stat. 188.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (b). Pub. L. 96-221 substituted "majority" for "unanimous".

1960—Subsec. (a). Pub. L. 86-507 inserted "or by certified mail" after "registered mail".

§214b. Continuation of business and corporate entity

The franchise of a national banking association as a national banking association shall automatically terminate when its conversion into or its merger or consolidation with a State bank under a State charter is consummated and the resulting State bank shall be considered the same business and corporate entity as the national banking association, although as to rights, powers, and duties the resulting bank is a State bank. Any reference to such national banking association in any contract, will, or document shall be considered a reference to the State bank if not inconsistent with the provisions of the contract, will, or document or applicable law.

(Aug. 17, 1950, ch. 729, §3, 64 Stat. 456.)

§214c. Conversions in contravention of State law

No conversion of a national banking association into a State bank or its merger or consolidation with a State bank shall take place under this subchapter and section 321 of this title in contravention of the law of the State in which the national banking association is located; and no such conversion, merger, or consolidation shall take place under said sections unless under the law of the State in which such national banking association is located State banks may without approval by any State authority convert into and merge or consolidate with national banking associations under limitations or conditions no more restrictive than those contained in section 214a of this title with respect to the conversion of a national bank into, or merger or consolidation of a national bank with, a State bank under State charter.

(Aug. 17, 1950, ch. 729, §4, 64 Stat. 456; July 12, 1952, ch. 696, 66 Stat. 590; Sept. 3, 1954, ch. 1263, §25, 68 Stat. 1235.)

EDITORIAL NOTES

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "this subchapter and section 321 of this title" for "sections 214 to 214c, 264(e)(2), (i)(2), (v)(4), and 321 of this title".

1952—Act July 12, 1952, amended section so that the limitation of this section beyond which State law cannot go will be measured by the standard set out in section 214a of this title for National-to-State conversions.

§214d. Prohibition on conversion

A national banking association may not convert to a State bank or State savings association during any period in which the national banking association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the

Comptroller of the Currency with respect to a significant supervisory matter.

(Aug. 17, 1950, ch. 729, §10, as added Pub. L. 111–203, title VI, §612(a), July 21, 2010, 124 Stat. 1612.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

SUBCHAPTER XVI—CONSOLIDATION AND MERGER

§215. Consolidation of banks within same State

(a) In general

Any national bank or any bank incorporated under the laws of any State may, with the approval of the Comptroller, be consolidated with one or more national banking associations located in the same State under the charter of a national banking association on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each association or bank proposing to consolidate, and be ratified and confirmed by the affirmative vote of the shareholders of each such association or bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of such State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or bank is located, or, if there is no such newspaper, then in the paper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State bank.

(b) Liability of consolidated association; capital stock; dissenting shareholders

The consolidated association shall be liable for all liabilities of the respective consolidating banks or associations. The capital stock of such consolidated association shall not be less than that required under existing law for the organization of a national bank in the place in which it is located:

Provided, That if such consolidation shall be voted for at such meetings by the necessary majorities of the shareholders of each association and State bank proposing to consolidate, and thereafter the consolidation shall be approved by the Comptroller, any shareholder of any of the associations or State banks so consolidated who has voted against such consolidation at the meeting of the association or bank of which he is a stockholder, or who has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of consolidation, shall be entitled to receive the value of the shares so held by him when such consolidation is approved by the Comptroller upon written request made to the consolidated association at any time before thirty days after the date of consummation of the consolidation, accompanied by the surrender of his stock certificates.

(c) Valuation of shares

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the consolidation, by an appraisal made by a committee of three persons, composed of (1) one

selected by the vote of the holders of the majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the consolidated banking association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

(d) Appraisal by Comptroller; expenses of consolidated association; sale and resale of shares; State appraisal and consolidation law

If, within ninety days from the date of consummation of the consolidation, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the consolidated banking association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the consolidated banking association. Within thirty days after payment has been made to all dissenting shareholders as provided for in this section the shares of stock of the consolidated banking association which would have been delivered to such dissenting shareholders had they not requested payment shall be sold by the consolidated banking association at an advertised public auction, unless some other method of sale is approved by the Comptroller, and the consolidated banking association shall have the right to purchase any of such shares at such public auction, if it is the highest bidder therefor, for the purpose of reselling such shares within thirty days thereafter to such person or persons and at such price not less than par as its board of directors by resolution may determine. If the shares are sold at public auction at a price greater than the amount paid to the dissenting shareholders the excess in such sale price shall be paid to such shareholders. The appraisal of such shares of stock in any State bank shall be determined in the manner prescribed by the law of the State in such cases, rather than as provided in this section, if such provision is made in the State law; and no such consolidation shall be in contravention of the law of the State under which such bank is incorporated.

(e) Status of consolidated association; property rights and interests vested and held as fiduciary

The corporate existence of each of the consolidating banks or banking associations participating in such consolidation shall be merged into and continued in the consolidated national banking association and such consolidated national banking association shall be deemed to be the same corporation as each bank or banking association participating in the consolidation. All rights, franchises, and interests of the individual consolidating banks or banking associations in and to every type of property (real, personal, and mixed) and choses in action shall be transferred to and vested in the consolidated national banking association by virtue of such consolidation without any deed or other transfer. The consolidated national banking association, upon the consolidation and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises, and interests, including appointments, designations, and nominations, and all other rights and interests as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, and receiver, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any one of the consolidating banks or banking associations at the time of consolidation, subject to the conditions hereinafter provided.

(f) Removal as fiduciary; discrimination

Where any consolidating bank or banking association, at the time of the consolidation, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, or receiver, or in any other fiduciary capacity, the consolidated national banking association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such consolidating bank or banking association prior to the

consolidation. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the consolidated national banking association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any consolidated national banking association be removed solely because of the fact that it is a national banking association.

(g) Issuance of stock by consolidated association; preemptive rights

Stock of the consolidated national banking association may be issued as provided by the terms of the consolidation agreement, free from any preemptive rights of the shareholders of the respective consolidating banks.

(Nov. 7, 1918, ch. 209, §2, formerly §1, as added Pub. L. 86–230, §20, Sept. 8, 1959, 73 Stat. 460; renumbered §2 and amended Pub. L. 103–328, title I, §102(b)(4)(C), Sept. 29, 1994, 108 Stat. 2351; Pub. L. 112–231, §2(b)(2)(A), Dec. 28, 2012, 126 Stat. 1619.)

EDITORIAL NOTES

CODIFICATION

Provisions similar to those comprising this section were contained in sections 1 and 2 of act Nov. 7, 1918, ch. 209, 40 Stat. 1043, and section 3 of act Nov. 7, 1918, ch. 209, added Feb. 25, 1927, ch. 191, §1, 44 Stat. 1225 (formerly classified to sections 33 to 34a of this title) prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86–230.

AMENDMENTS

2012—Subsec. (e). Pub. L. 112–231, §2(b)(2)(A)(i), substituted "and receiver" for "receiver, and committee of estates of lunatics".

Subsec. (f). Pub. L. 112–231, §2(b)(2)(A)(ii), substituted "or receiver" for "receiver, or committee of estates of lunatics".

1994—Pub. L. 103–328 inserted section catchline and, in subsec. (a), inserted heading and substituted "Any national bank" for "Any national banking association".

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Act Nov. 7, 1918, ch. 209, §1, as added by Pub. L. 103–328, title I, §102(b)(4)(C), Sept. 29, 1994, 108 Stat. 2351, provided that: "This Act [enacting this subchapter] may be cited as the 'National Bank Consolidation and Merger Act'."

§215a. Merger of national banks or State banks into national banks

(a) Approval of Comptroller, board and shareholders; merger agreement; notice; capital stock; liability of receiving association

One or more national banking associations or one or more State banks, with the approval of the Comptroller, under an agreement not inconsistent with this subchapter, may merge into a national banking association located within the same State, under the charter of the receiving association. The merger agreement shall—

(1) be agreed upon in writing by a majority of the board of directors of each association or State bank participating in the plan of merger;

(2) be ratified and confirmed by the affirmative vote of the shareholders of each such association or State bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of a State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors, after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or State bank is located, or, if there is no

such newspaper, then in the newspaper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State banks;

(3) specify the amount of the capital stock of the receiving association, which shall not be less than that required under existing law for the organization of a national bank in the place in which it is located and which will be outstanding upon completion of the merger, the amount of stock (if any) to be allocated, and cash (if any) to be paid, to the shareholders of the association or State bank being merged into the receiving association; and

(4) provide that the receiving association shall be liable for all liabilities of the association or State bank being merged into the receiving association.

(b) Dissenting shareholders

If a merger shall be voted for at the called meetings by the necessary majorities of the shareholders of each association or State bank participating in the plan of merger, and thereafter the merger shall be approved by the Comptroller, any shareholder of any association or State bank to be merged into the receiving association who has voted against such merger at the meeting of the association or bank of which he is a stockholder, or has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of merger, shall be entitled to receive the value of the shares so held by him when such merger shall be approved by the Comptroller upon written request made to the receiving association at any time before thirty days after the date of consummation of the merger, accompanied by the surrender of his stock certificates.

(c) Valuation of shares

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the merger, by an appraisal made by a committee of three persons, composed of (1) one selected by the vote of the holders of the majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the receiving association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

(d) Application to shareholders of merging associations: appraisal by Comptroller; expenses of receiving association; sale and resale of shares; State appraisal and merger law

If, within ninety days from the date of consummation of the merger, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the receiving association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the receiving association. The shares of stock of the receiving association which would have been delivered to such dissenting shareholders had they not requested payment shall be sold by the receiving association at an advertised public auction, and the receiving association shall have the right to purchase any of such shares at such public auction, if it is the highest bidder therefor, for the purpose of reselling such shares within thirty days thereafter to such person or persons and at such price not less than par as its board of directors by resolution may determine. If the shares are sold at public auction at a price greater than the amount paid to the dissenting shareholders, the excess in such sale price shall be paid to such dissenting shareholders. The appraisal of such shares of stock in any State bank shall be determined in the manner prescribed by the law of the State in such cases, rather than

as provided in this section, if such provision is made in the State law; and no such merger shall be in contravention of the law of the State under which such bank is incorporated. The provisions of this subsection shall apply only to shareholders of (and stock owned by them in) a bank or association being merged into the receiving association.

(e) Status of receiving association; property rights and interests vested and held as fiduciary

The corporate existence of each of the merging banks or banking associations participating in such merger shall be merged into and continued in the receiving association and such receiving association shall be deemed to be the same corporation as each bank or banking association participating in the merger. All rights, franchises, and interests of the individual merging banks or banking associations in and to every type of property (real, personal, and mixed) and choses in action shall be transferred to and vested in the receiving association by virtue of such merger without any deed or other transfer. The receiving association, upon the merger and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises, and interests, including appointments, designations, and nominations, and all other rights and interests as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, and receiver, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any one of the merging banks or banking associations at the time of the merger, subject to the conditions hereinafter provided.

(f) Removal as fiduciary; discrimination

Where any merging bank or banking association, at the time of the merger, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, or receiver, or in any other fiduciary capacity, the receiving association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such merging bank or banking association prior to the merger. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the receiving association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any receiving association be removed solely because of the fact that it is a national banking association.

(g) Issuance of stock by receiving association; preemptive rights

Stock of the receiving association may be issued as provided by the terms of the merger agreement, free from any preemptive rights of the shareholders of the respective merging banks.

(Nov. 7, 1918, ch. 209, §3, formerly §2, as added Pub. L. 86-230, §20, Sept. 8, 1959, 73 Stat. 463; renumbered §3, Pub. L. 103-328, title I, §102(b)(4)(A), Sept. 29, 1994, 108 Stat. 2351; amended Pub. L. 112-231, §2(b)(2)(B), Dec. 28, 2012, 126 Stat. 1619.)

EDITORIAL NOTES

CODIFICATION

Provisions similar to those comprising this section were contained in section 4 of act Nov. 7, 1918, ch. 209, as added July 14, 1952, ch. 722, §1, 66 Stat. 599 (formerly classified to section 34b of this title), prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

AMENDMENTS

2012—Subsec. (e). Pub. L. 112-231, §2(b)(2)(B)(i), substituted "and receiver" for "receiver, and committee of estates of lunatics".

Subsec. (f). Pub. L. 112-231, §2(b)(2)(B)(ii), substituted "or receiver" for "receiver, or committee of estates of lunatics".

§215a-1. Interstate consolidations and mergers

(a) In general

A national bank may engage in a consolidation or merger under this subchapter with an out-of-State bank if the consolidation or merger is approved pursuant to section 1831u of this title.

(b) Scope of application

Subsection (a) shall not apply with respect to any consolidation or merger before June 1, 1997, unless the home State of each bank involved in the transaction has in effect a law described in section 1831u(a)(3) of this title.

(c) Definitions

The terms "home State" and "out-of-State bank" have the same meaning as in section 1831u(f) ¹ of this title.

(Nov. 7, 1918, ch. 209, §4, as added Pub. L. 103-328, title I, §102(b)(4)(D), Sept. 29, 1994, 108 Stat. 2351.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1831u of this title, referred to in subsec. (c), was subsequently amended, and subsec. (f) of section 1831u no longer defines the terms "home State" and "out-of-State bank". However, such terms are defined elsewhere in that section.

¹ [*See References in Text note below.*](#)

§215a-2. Expedited procedures for certain reorganizations

(a) In general

A national bank may, with the approval of the Comptroller, pursuant to rules and regulations promulgated by the Comptroller, and upon the affirmative vote of the shareholders of such bank owning at least two-thirds of its capital stock outstanding, reorganize so as to become a subsidiary of a bank holding company or of a company that will, upon consummation of such reorganization, become a bank holding company.

(b) Reorganization plan

A reorganization authorized under subsection (a) shall be carried out in accordance with a reorganization plan that—

- (1) specifies the manner in which the reorganization shall be carried out;
- (2) is approved by a majority of the entire board of directors of the national bank;
- (3) specifies—
 - (A) the amount of cash or securities of the bank holding company, or both, or other consideration to be paid to the shareholders of the reorganizing bank in exchange for their shares of stock of the bank;
 - (B) the date as of which the rights of each shareholder to participate in such exchange will be determined; and
 - (C) the manner in which the exchange will be carried out; and

(4) is submitted to the shareholders of the reorganizing bank at a meeting to be held on the call of the directors in accordance with the procedures prescribed in connection with a merger of a national bank under section 215a of this title.

(c) Rights of dissenting shareholders

If, pursuant to this section, a reorganization plan has been approved by the shareholders and the Comptroller, any shareholder of the bank who has voted against the reorganization at the meeting

referred to in subsection (b)(4), or has given notice in writing at or prior to that meeting to the presiding officer that the shareholder dissents from the reorganization plan, shall be entitled to receive the value of his or her shares, as provided by section 215a of this title for the merger of a national bank.

(d) Effect of reorganization

The corporate existence of a national bank that reorganizes in accordance with this section shall not be deemed to have been affected in any way by reason of such reorganization.

(e) Approval under the Bank Holding Company Act

This section does not affect in any way the applicability of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.] to a transaction described in subsection (a).

(Nov. 7, 1918, ch. 209, §5, as added Pub. L. 106-569, title XII, §1204(2), Dec. 27, 2000, 114 Stat. 3033.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Bank Holding Company Act of 1956, referred to in subsec. (e), is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

§215a-3. Mergers and consolidations with subsidiaries and nonbank affiliates

(a) In general

Upon the approval of the Comptroller, a national bank may merge with one or more of its nonbank subsidiaries or affiliates.

(b) Scope

Nothing in this section shall be construed—

- (1) to affect the applicability of section 1828(c) of this title; or
- (2) to grant a national bank any power or authority that is not permissible for a national bank under other applicable provisions of law.

(c) Regulations

The Comptroller shall promulgate regulations to implement this section.

(Nov. 7, 1918, ch. 209, §6, as added Pub. L. 106-569, title XII, §1206, Dec. 27, 2000, 114 Stat. 3034.)

§215b. Definitions

As used in this subchapter, the term—

- (1) "State bank" means any bank, banking association, trust company, savings bank (other than a mutual savings bank), or other banking institution which is engaged in the business of receiving deposits and which is incorporated under the laws of any State, or which is operating under the Code of Law for the District of Columbia;
- (2) "State" means the several States and Territories, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;
- (3) "Comptroller" means the Comptroller of the Currency; and
- (4) "Receiving association" means the national banking association into which one or more national banking associations or one or more State banks, located within the same State, merge.

(Nov. 7, 1918, ch. 209, §7, formerly §3, as added Pub. L. 86-230, §20, Sept. 8, 1959, 73 Stat. 465; renumbered §5, Pub. L. 103-328, title I, §102(b)(4)(B), Sept. 29, 1994, 108 Stat. 2351; renumbered

§7, Pub. L. 106–569, title XII, §1204(1), Dec. 27, 2000, 114 Stat. 3033; amended Pub. L. 109–351, title VII, §725(e), Oct. 13, 2006, 120 Stat. 2002; Pub. L. 109–356, title I, §123(e), Oct. 16, 2006, 120 Stat. 2029.)

EDITORIAL NOTES

CODIFICATION

Provisions similar to those comprising this section were contained in section 5 of act Nov. 7, 1918, ch. 209, as added July 14, 1952, ch. 722, §1, 66 Stat. 601 (formerly classified to section 34c of this title), prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86–230.

AMENDMENTS

2006—Par. (1). Pub. L. 109–351 and 109–356 amended par. (1) identically, striking out "(except a national banking association located in the District of Columbia)" before semicolon at end.

§215c. Mergers, consolidations, and other acquisitions authorized

(a) In general

Subject to sections 1815(d)(3) ¹ and 1828(c) of this title and all other applicable laws, any national bank may acquire or be acquired by any insured depository institution.

(b) Expedited approval of acquisitions

(1) In general

Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency under any applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

(2) Extensions of period

The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

- (A) an applicant has not furnished all of the information required to be submitted; or
- (B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

(c) Rule of construction

No provision of this section shall be construed as authorizing a national bank or a subsidiary of a national bank to engage in any activity not otherwise authorized under this Act ¹ or any other law governing the powers of national banks.

(d) "Acquire" defined

For purposes of this section, the term "acquire" means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

(R.S. §5156A, as added Pub. L. 102–242, title V, §502(b), Dec. 19, 1991, 105 Stat. 2393; amended Pub. L. 104–208, div. A, title II, §2201(b)(1), Sept. 30, 1996, 110 Stat. 3009–403.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1815(d)(3) of this title, referred to in subsec. (a), which related to optional conversions by insured depository institutions subject to special rules on deposit insurance payments, was struck out and former

section 1815(d)(1)(C) redesignated section 1815(d)(3) by Pub. L. 109–173, §8(a)(4), (5)(D), Feb. 15, 2006, 119 Stat. 3610, 3611.

This Act, referred to in subsec. (c), probably means the National Bank Act, act June 3, 1864, ch. 106, 13 Stat. 99, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

CODIFICATION

Section was not enacted as part of act Nov. 7, 1918, ch. 209, as added Sept. 8, 1959, Pub. L. 86–230, §20, 73 Stat. 460, which comprises this subchapter.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–208 substituted "under any applicable law" for "by section 1815(d)(3) of this title or any other applicable law".

¹ [*See References in Text note below.*](#)

SUBCHAPTER XVII—DISPOSITION OF UNCLAIMED PROPERTY RECOVERED FROM CLOSED NATIONAL BANKS

§216. Purpose

The purpose of this subchapter is to dispose of unclaimed property in the possession, custody, or control of the Comptroller of the Currency by—

- (1) providing final notice of the availability of unclaimed property from closed national banks;
- (2) barring rights of claimants to obtain such property from the Comptroller after a reasonable period of time following such notice; and
- (3) authorizing the Comptroller to dispose of such property for which no claims have been filed and validated under this subchapter.

(Pub. L. 96–221, title VII, §731, as added Pub. L. 97–320, title IV, §408, Oct. 15, 1982, 96 Stat. 1513; amended Pub. L. 109–351, title VII, §725(c)(1), Oct. 13, 2006, 120 Stat. 2001; Pub. L. 109–356, title I, §123(c)(1), Oct. 16, 2006, 120 Stat. 2029.)

EDITORIAL NOTES

AMENDMENTS

2006—Par. (1). Pub. L. 109–351 and 109–356 amended par. (1) identically, striking out "and closed banks in the District of Columbia" before semicolon at end.

§216a. Definitions

For purposes of this subchapter—

- (1) the term "Comptroller" means the Comptroller of the Currency;
- (2) the term "unclaimed property" means any articles, items, assets, other property, or the proceeds thereof from safe deposit boxes or other safekeeping arrangements with closed national banks, which are in the possession, custody, or control of the Comptroller in its capacity as successor to receivers of those banks; and
- (3) the term "claimant" means any person or entity, including a State under applicable statutory law, asserting a demonstrable legal interest in title to, or custody or possession of, unclaimed property.

(Pub. L. 96–221, title VII, §732, as added Pub. L. 97–320, title IV, §408, Oct. 15, 1982, 96 Stat. 1513; amended Pub. L. 109–351, title VII, §725(c)(2), Oct. 13, 2006, 120 Stat. 2001; Pub. L.

109–356, title I, §123(c)(2), Oct. 16, 2006, 120 Stat. 2029.)

EDITORIAL NOTES

AMENDMENTS

2006—Par. (2). Pub. L. 109–351 and 109–356 amended par. (2) identically, striking out "or closed banks in the District of Columbia" after "closed national banks".

§216b. Disposition of unclaimed property

(a) Limitations for filing claims; publication of notice in Federal Register; contents of notice; disclosure of descriptive information; inspection of specific property

(1) Within twelve months following October 15, 1982, the Comptroller shall publish formal notice in the Federal Register that all claims to rights of any claimant to obtain title to, or custody or possession of, any unclaimed property in the possession, custody, or control of the Comptroller must be filed within twelve months following the last date of publication of such formal notice in the Federal Register or shall thereafter be barred.

(2) Such notice shall contain the names of last known owners, if any, names and locations of affected closed banks, and a general description of the types of unclaimed property held by the Comptroller. The Comptroller may provide additional notice in local communities as it deems appropriate.

(3)(A) The Comptroller shall not disclose, by publication, inspection or otherwise, information relating to the ownership or description of any specific unclaimed property prior to publication of formal notice under this section.

(B) Thereafter, the Comptroller shall disclose descriptive information of specific unclaimed property only to a claimant thereof. The Comptroller may recoup expenses associated with any publication or other provision of notice from any sale of property authorized by this subchapter. Reasonable opportunity for inspection of specific property by a claimant thereof shall be provided in Washington, District of Columbia.

(b) Delivery of property to claimant upon proof of entitlement; determination of validity of claims; recoupment of expenses; liability for losses; insurance requirements

(1) The Comptroller shall deliver such property to any claimant or his or her legally authorized representative upon receiving proof deemed adequate by the Comptroller that such claimant is entitled to the property, but only if the claimant files for the property within twelve months following the last date formal notice is published in the Federal Register.

(2)(A) The Comptroller shall have authority to determine the validity of all claims filed. The Comptroller may recoup expenses associated with the handling and processing of claims from any sale of property authorized by this subchapter.

(B) All expenses associated with the delivery of any property shall be borne by the claimant. The Comptroller shall not be responsible for any loss in connection with the handling, storage, or delivery of any property to the claimant. The Comptroller may require the claimant to purchase insurance to cover the risk of any loss.

(c) Vesting of rights, title and interest in unclaimed property in United States; sale, use, destruction or disposition of property; proceeds of sale as miscellaneous receipts

(1) If, after twelve months from the date formal notice is published in the Federal Register, any such property remains in the possession, custody, or control of the Comptroller for which no valid claim has been filed, all rights, title, and interest in such property shall immediately be vested in the United States.

(2) The Comptroller shall thereupon, in his discretion, sell, use, destroy, or otherwise dispose of any such unclaimed property. Such disposition may include donations to the Smithsonian Institution for addition to the national collection.

(3) The proceeds of any sale authorized by this section, after recoupment by the Comptroller of any expenses incurred hereunder, shall be covered into the Treasury as miscellaneous receipts.

(d) Liability for determination of validity of claims; liability for delivery, sale, etc., of property

The United States, the Comptroller, or any officer, employee, or agent thereof shall not be subject to personal or legal liability for any determination as to the validity of any claim or claims filed under this subchapter or for any delivery, sale, destruction, or other disposition of unclaimed property.

(e) Court action for determination of ownership, etc., in State or Federal court of competent jurisdiction; de novo nature of action; parties

(1) A court action to determine legal ownership, entitlement, or right to possession may be filed in any State or Federal court of competent jurisdiction other than against the United States, the Comptroller, or any officer, agent, or employee thereof.

(2) Such actions shall be determined de novo without regard to any agency determination or any disposition or delivery by the Comptroller of any particular property to any person.

(3) The United States, the Comptroller, or any officer, employee, or agent thereof shall neither be a party to any such judicial proceeding nor be bound by any decision, decree, or order resulting therefrom.

(f) Jurisdiction of United States Court of Federal Claims of actions against United States, Comptroller, officer, etc.; scope of review of actions of Comptroller; limitations; claims against Comptroller, officer, etc., as claim against United States

(1) The United States Court of Federal Claims shall have exclusive jurisdiction to hear and determine any suit brought against the United States, the Comptroller, or any officer, employee, or agent thereof with regard to any determination of a claim or the disposition of any unclaimed property.

(2) The United States Court of Federal Claims may set aside actions of the Comptroller only if such actions are found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(3) All claims for which the United States Court of Federal Claims has jurisdiction under this subsection shall be barred unless suit is filed within two years from the date of expiration of the twelve-month notice period provided by this subchapter.

(4) For purposes of section 1491 of title 28, any Claim ¹ against the Comptroller, the United States, or any officer, employee, or agent thereof shall be considered a claim against the United States.

(Pub. L. 96-221, title VII, §733, as added Pub. L. 97-320, title IV, §408, Oct. 15, 1982, 96 Stat. 1513; amended Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (f)(1) to (3). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

¹ *So in original. Probably should not be capitalized.*

§216c. Rules and regulations

The Comptroller may issue rules and regulations necessary or appropriate to carry out this subchapter.

(Pub. L. 96–221, title VII, §734, as added Pub. L. 97–320, title IV, §408, Oct. 15, 1982, 96 Stat. 1515.)

§216d. Severability

If any provision of this subchapter or the application of such provision to any person or circumstance is held invalid, the remainder of this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 96–221, title VII, §735, as added Pub. L. 97–320, title IV, §408, Oct. 15, 1982, 96 Stat. 1515.)

CHAPTER 3—FEDERAL RESERVE SYSTEM

SUBCHAPTER I—DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS AFFECTING SYSTEM

- Sec.
- 221. Definitions.
- 221a. Additional definitions.
- 222. Federal reserve districts; membership of national banks.
- 223. Number of Federal reserve cities in district.
- 224. Status of reserve cities under former statutes.
- 225. Federal reserve banks; title.
- 225a. Maintenance of long run growth of monetary and credit aggregates.
- 225b. Appearances before and reports to the Congress.
- 226. "Federal Reserve Act."
- 227. "Banking Act of 1933."
- 228. "Banking Act of 1935."

SUBCHAPTER II—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

- 241. Creation; membership; compensation and expenses.
- 242. Ineligibility to hold office in member banks; qualifications and terms of office of members; chairman and vice chairman; oath of office.
- 243. Assessments upon Federal reserve banks to pay expenses.
- 244. Principal offices of Board; chairman of Board; obligations and expenses; qualifications of members; vacancies.
- 245. Vacancies during recess of Senate.
- 246. Powers of Secretary of the Treasury as affected by chapter.
- 247. Reports to Congress.
- 247a. Records of action on policy relating to open-market operation and policies determined generally; inclusion in report to Congress.
- 247b. Appearances before Congress.
- 248. Enumerated powers.
- 248–1. Rules and regulations for transfer of funds and charges therefor among banks; clearing houses.
- 248a. Pricing of services.
- 248b. Annual independent audits of Federal reserve banks and Board.
- 248c. Master account and services database.

- 249. Repealed.
- 250. Independence of financial regulatory agencies.
- 251. Repealed.
- 252. Credit availability assessment.
- 253. Open data publication by the Board of Governors.

SUBCHAPTER III—FEDERAL ADVISORY COUNCIL

- 261. Creation; membership; compensation; meetings; officers; procedure; quorum; vacancies.
- 262. Powers.

SUBCHAPTER IV—FEDERAL OPEN MARKET COMMITTEE

- 263. Federal Open Market Committee; creation; membership; regulations governing open-market transactions.

SUBCHAPTER V—FEDERAL DEPOSIT INSURANCE CORPORATION

- 264. Transferred.
- 265. Insured banks as depositaries of public money; duties; security; discrimination between banks prohibited; repeal of inconsistent laws.
- 266. State-chartered banks and other institutions as depositaries of public money; fiscal agents; duties.

SUBCHAPTER VI—CAPITAL AND STOCK OF FEDERAL RESERVE BANKS; DIVIDENDS AND EARNINGS

- 281. Capital.
- 282. Subscription to capital stock by national banking association.
- 283. Public subscription to capital stock.
- 284. Omitted.
- 285. Nonvoting stock.
- 286. Transfers of stock; rules and regulations.
- 287. Value of shares of stock; increase and decrease of stock; member banks as shareholders; surrender of shares.
- 288. Cancellation of stock held by member bank on insolvency or discontinuance of banking operations for sixty days; repayment of cash-paid subscriptions.
- 289. Dividends and surplus funds of reserve banks; transfer for fiscal year 2000.
- 290. Use of earnings transferred to the Treasury.

SUBCHAPTER VII—DIRECTORS OF FEDERAL RESERVE BANKS; RESERVE AGENTS AND ASSISTANTS

- 301. Powers and duties of board of directors; suspension of member bank for undue use of bank credit.
- 302. Number of members; classes.
- 303. Qualifications and disabilities.
- 304. Class A and class B directors; selection.
- 305. Class C directors; selection; "Federal reserve agent."
- 306. Assistants to Federal reserve agent.
- 307. Compensation of directors.
- 308. Terms of directors; vacancies.

SUBCHAPTER VIII—STATE BANKS AS MEMBERS OF SYSTEM

- 321. Application for membership.
- 322. Determination on application.
- 323. Stock in Federal reserve banks; method of payment.
- 324. Laws applicable on becoming members.
- 325. Examinations.
- 326. Acceptance of examinations and reports by State authorities; special examinations.
- 327. Surrender of stock and cancellation of memberships.
- 328. Withdrawals from membership.

- 329. Capital stock required as condition precedent to membership.
 - 329a. Omitted.
 - 330. Laws applicable on becoming members; discounts for State banks.
 - 331. Certifying checks on State banks admitted as members.
 - 332. Depositories of public money; financial agents; security required.
 - 333. Mutual savings banks; application and admission to membership in Federal Reserve System.
 - 334. Reports from affiliates; penalty for failure to furnish.
 - 335. Dealing in investment securities; limitations and conditions.
 - 336. Certificates of stock; representation of stock of other corporations.
 - 337. Repealed.
 - 338. Examination of affiliates; forfeiture of membership on refusal of affiliate to give information or pay expense.
 - 338a. Investments to promote public welfare and community development; limitation on investments.
 - 339. Participation by State member banks in lotteries and related activities.
 - 339a. Resolution of clearing banks.
- SUBCHAPTER IX—POWERS AND DUTIES OF FEDERAL RESERVE BANKS
- 341. General enumeration of powers.
 - 342. Deposits; exchange and collection; member and nonmember banks or other depository institutions; charges.
 - 343. Discount of obligations arising out of actual commercial transactions.
 - 344. Discount or purchase of bills to finance agricultural shipments.
 - 345. Rediscount of notes, drafts, and bills for member banks; limitation of amount.
 - 346. Discount of acceptances.
 - 347. Advances to member banks on their notes.
 - 347a. Advances to member bank groups; inadequate amounts of eligible and acceptable assets; liability of individual banks in group; distribution of loans among banks of group; rate of interest; notes accepted for advances as collateral security for Federal reserve notes; foreign obligations as security for advances.
 - 347b. Advances to individual member banks on time or demand notes; maturities; time notes secured by mortgage loans covering one-to-four family residences.
 - 347c. Advances to individuals, partnerships, and corporations; security; interest rate.
 - 347d. Transactions between Federal Reserve banks and branch or agency of foreign bank; matters considered.
 - 348. Discount of obligations given for agricultural purposes or based upon livestock; collateral security for Federal reserve notes.
 - 348a. Transactions with foreign banks; supervision of Board of Governors of the Federal Reserve System.
 - 349. Rediscount for intermediate credit banks of obligations given for agricultural purposes; discount of notes made pursuant to section 1031.
 - 350. Purchase and sale of debentures and like obligations of intermediate credit banks and agricultural credit corporations.
 - 351. Obligations of cooperative marketing association as issued or drawn for agricultural purposes.
 - 352. Limitation on amount of obligations of certain maturities which may be discounted and rediscounted.
 - 352a. Repealed.
 - 353. Purchase and sale of cable transfers, acceptances and bills.
 - 354. Transactions involving gold coin, bullion, and certificates.
 - 355. Purchase and sale of obligations of National, State, and municipal governments; open market operations; purchases and sales from or to United States; maximum aggregate amount of obligations acquired directly from or loaned directly to United States.

- 356. Purchase of commercial paper from member banks and sale of same.
- 357. Establishment of rates of discount.
- 358. Establishment of accounts for purposes of open-market operations; correspondents and agencies.
- 359. Purchase and sale of acceptances of intermediate credit banks and agricultural credit corporations.
- 359a. Omitted.
- 360. Receiving checks and drafts on deposit at par; charges for collections, exchange, and clearances.
- 361. Bills receivable, bills of exchange, acceptances; regulations by Board of Governors.
- 362 to 364. Omitted.

SUBCHAPTER X—POWERS AND DUTIES OF MEMBER BANKS

- 371. Real estate loans.
- 371a. Repealed.
- 371b. Rate of interest on time deposits; payment of time deposits before maturity; waiver of notice requirements for withdrawal of savings deposits.
- 371b-1. Repealed.
- 371b-2. Interbank liabilities.
- 371c. Banking affiliates.
- 371c-1. Restrictions on transactions with affiliates.
- 371d. Investment in bank premises or stock of corporation holding premises.
- 372. Bankers' acceptances.
- 373. Acceptance of drafts or bills drawn by banks in foreign countries or dependencies of United States for purpose of dollar exchange.
- 374. Acting as agent for nonmember bank in getting discounts from reserve bank.
- 374a. Acting as agent for nonbanking borrower in making loans on securities to dealers in stocks, bonds, etc.; penalties.
- 375. Reserved.
- 375a. Loans to executive officers of banks.
- 375b. Extensions of credit to executive officers, directors, and principal shareholders of member banks.
- 376. Rate of interest paid to directors, etc.
- 377. Repealed.
- 378. Dealers in securities engaging in banking business; individuals or associations engaging in banking business; examinations and reports; penalties.

SUBCHAPTER XI—DEPOSITARIES AND FISCAL AGENTS

- 391. Federal reserve banks as Government depositaries and fiscal agents.
- 391a. Reimbursement of Federal Reserve Banks.
- 392. Depositaries of Government funds as confined to banks in Federal reserve system; member banks as depositaries.
- 393. Federal reserve banks as depositaries for Farm Credit System.
- 394. Federal reserve banks as depositaries for and fiscal agents of Home Owners' Loan Corporation.
- 395. Federal reserve banks as depositaries, custodians and fiscal agents for Commodity Credit Corporation.

SUBCHAPTER XII—FEDERAL RESERVE NOTES

- 411. Issuance to reserve banks; nature of obligation; redemption.
- 412. Application for notes; collateral required.
- 413. Distinctive letter and serial number of notes; cancellation of notes unfit for circulation; accounting; apportionment of credit among Federal Reserve banks.
- 414. Authority of Board of Governors respecting issuance of notes; interest; lien.
- 415. Reduction of liability for outstanding notes by depositing notes and collateral and payment of notes of series prior to 1928; reissue of deposited notes.

- 416. Withdrawal of collateral deposited to protect notes and substitution of other collateral; retirement of notes; payment of notes of series prior to 1928; recovery of collateral; reissue of deposited notes.
 - 417. Custody and safe-keeping of notes issued to and collateral deposited with Reserve agent.
 - 418. Printing of notes; denomination and form.
 - 419. Delivery of notes prior to delivery to banks.
 - 420. Control and direction of plates and dies; expense of issue and retirement of notes paid by banks.
 - 421. Examination of plates and dies.
 - 422. Omitted.
- SUBCHAPTER XIII—CIRCULATING NOTES AND BONDS SECURING SAME
- 441 to 448. Omitted.

SUBCHAPTER XIV—BANK RESERVES

- 461. Reserve requirements.
- 462 to 462c. Omitted or Repealed.
- 463. Limitation on amount of balance with any depository institution without access to Federal Reserve advances.
- 464. Checking against and withdrawal of reserve balance.
- 465. Basis for ascertaining deposits against which required balance is determined.
- 466. Reserves of banks in dependencies or insular possessions.
- 467. Deposits of gold coin, gold certificates, and Special Drawing Right certificates with United States Treasurer.

SUBCHAPTER XV—BANK EXAMINATIONS

- 481. Appointment of examiners; examination of member banks, State banks, and trust companies; reports.
- 482. Employees of Office of Comptroller of the Currency; appointment; compensation and benefits.
- 483. Special examination of member banks; information of condition furnished to Board of Governors of the Federal Reserve System.
- 484. Limitation on visitorial powers.
- 485. Examination of Federal reserve banks.
- 486. Waiver of requirements as to reports from or examinations of affiliates.

SUBCHAPTER XVI—CIVIL LIABILITY OF FEDERAL RESERVE AND MEMBER BANKS, SHAREHOLDERS, AND OFFICERS

- 501. Liability of Federal reserve or member bank for certifying check when amount of deposit was inadequate.
- 501a. Forfeiture of franchise of national banks for failure to comply with provisions of this chapter.
- 502. Liability of shareholders of Federal reserve banks on contracts, etc.
- 503. Liability of directors and officers of member banks.
- 504. Civil money penalty.
- 505. Civil money penalty.
- 506. Notice after separation from service.

SUBCHAPTER XVII—RESERVE-BANK BRANCHES

- 521. Reserve-bank branches; establishment; directors; discontinuance of branches; approval for erection of branch bank building.
- 522. Federal Reserve branch bank buildings.

SUBCHAPTER I—DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS AFFECTING SYSTEM

§221. Definitions

Wherever the word "bank" is used in this chapter, the word shall be held to include State bank, banking association, and trust company, except where national banks or Federal reserve banks are specifically referred to. For purposes of this chapter, a State bank includes any bank which is operating under the Code of Law for the District of Columbia.

The terms "national bank" and "national banking association" used in this chapter shall be held to be synonymous and interchangeable. The term "member bank" shall be held to mean any national bank, State bank, or bank or trust company which has become a member of one of the Federal reserve banks. The term "board" shall be held to mean Board of Governors of the Federal Reserve System; the term "district" shall be held to mean Federal reserve district; the term "reserve bank" shall be held to mean Federal reserve bank; the term "the continental United States" means the States of the United States and the District of Columbia.

The terms "bonds and notes of the United States", "bonds and notes of the Government of the United States", and "bonds or notes of the United States" used in this chapter shall be held to include certificates of indebtedness and Treasury bills issued under section 3104 of title 31.

(Dec. 23, 1913, ch. 6, §1 (pars.), 38 Stat. 251; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 86–70, §8(a), June 25, 1959, 73 Stat. 142; Pub. L. 97–258, §2(c), Sept. 13, 1982, 96 Stat. 1058; Pub. L. 109–351, title VII, §725(a)(1), Oct. 13, 2006, 120 Stat. 2001; Pub. L. 109–356, title I, §123(a)(1), Oct. 16, 2006, 120 Stat. 2028.)

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

This section is comprised of the second to fourth pars. of section 1 of act Dec. 23, 1913. The first par. of section 1 is classified to section 226 of this title.

AMENDMENTS

2006—Pub. L. 109–351 and 109–356 amended section identically, inserting "For purposes of this chapter, a State bank includes any bank which is operating under the Code of Law for the District of Columbia." at end of first par.

1982—Pub. L. 97–258 inserted provisions defining "bonds and notes of the United States", "bonds and notes of the Government of the United States", and "bonds or notes of the United States". These provisions are based on acts Sept. 24, 1917, ch. 56, §5(c), 40 Stat. 290; Apr. 4, 1918, ch. 44, §4, 40 Stat. 504; Mar. 3, 1919, ch. 100, §3, 40 Stat. 1311; restated June 17, 1929, ch. 26, 46 Stat. 20 (former 31 U.S.C. 754(c)).

1959—Pub. L. 86–70 inserted definition of "the continental United States".

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.

§221a. Additional definitions

As used in this chapter—

(a) The terms "banks", "national bank", "national banking association", "member bank", "board", "district", and "reserve bank" shall have the meanings assigned to them in section 221 of this title.

(b) Except where otherwise specifically provided, the term "affiliate" shall include any corporation, business trust, association, or other similar organization—

(1) Of which a member bank, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 per centum of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a member bank who own or control either a majority of the shares of such bank or more than 50 per centum of the number of shares voted for the election of directors of such bank at the preceding election, or by trustees for the benefit of the shareholders of any such bank; or

(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one member bank; or

(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a member bank or more than 50 per centum of the number of shares voted for the election of directors of a member bank at the preceding election, or controls in any manner the election of a majority of the directors of a member bank, or for the benefit of whose shareholders or members all or substantially all the capital stock of a member bank is held by trustees.

(June 16, 1933, ch. 89, §2, 48 Stat. 162; Aug. 23, 1935, ch. 614, title III, §301, 49 Stat. 707; Pub. L. 89-485, §13(a), (b), July 1, 1966, 80 Stat. 242.)

EDITORIAL NOTES

REFERENCES IN TEXT

As used in this chapter, referred to in text, was in the original "As used in this Act and in any provision of law amended by this Act", meaning act June 16, 1933, ch. 89, 48 Stat. 162, known as the Banking Act of 1933. For complete classification of this Act to the Code, see References in Text note set out under section 227 of this title and Tables.

AMENDMENTS

1966—Subsec. (b)(4). Pub. L. 89-485, §13(a), added par. (4) which incorporates definitions of "holding company affiliate" contained in cls. (1) and (2) of former subsec. (c) of this section, and substituted "a member bank" for "any one bank" in first two places.

Subsec. (c). Pub. L. 89-485, §13(b), repealed definition of "holding company affiliate", cls. (1) and (2) thereof now being incorporated in the subsec. (b)(4) definition of "affiliate", substituting "a member bank" for "any one bank" in first two places and the par. excluding therefrom any corporations stock of which is fully owned by the United States and any organization determined by the Board of Governors of the Federal Reserve System not to be engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, or trust companies.

1935—Subsec. (c). Act Aug. 23, 1935, added last par.

§222. Federal reserve districts; membership of national banks

The continental United States, excluding Alaska, shall be divided into not less than eight nor more than twelve districts. Such districts may be readjusted and new districts may from time to time be created by the Board of Governors of the Federal Reserve System, not to exceed twelve in all:

Provided, That the districts shall be apportioned with due regard to the convenience and customary course of business and shall not necessarily be coterminous with any State or States. Such districts shall be known as Federal reserve districts and may be designated by number. When the State of Alaska or Hawaii is hereafter admitted to the Union the Federal Reserve ¹ districts shall be readjusted by the Board of Governors of the Federal Reserve System in such manner as to include such State. Every national bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the

Federal Reserve System by subscribing and paying for stock in the Federal Reserve bank of its district in accordance with the provisions of this chapter and shall thereupon be an insured bank under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and failure to do so shall subject such bank to the penalty provided by section 501a of this title.

(Dec. 23, 1913, ch. 6, §2 (part), 38 Stat. 251; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 85-508, §19, July 7, 1958, 72 Stat. 350; Pub. L. 86-3, §17, Mar. 18, 1959, 73 Stat. 12.)

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.

The Federal Deposit Insurance Act, referred to in text, is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

Section is based on part of the first par. of section 2 of act Dec. 23, 1913. Some of the other provisions of the first par. are classified to section 223 of this title, and some were not included in the Code.

The second par. of section 2 is classified in part to section 225 of this title. The rest of the second par. was not included in the Code.

The third par. of section 2 is classified in part to section 282 of this title. The rest of the third par. was not included in the Code.

The fourth par. of section 2 is classified to section 502 of this title.

The sixth and seventh pars. of section 2 are classified to section 501a of this title.

The ninth par. of section 2 is classified to section 283 of this title.

The tenth par. of section 2 was classified in part to former section 284 of this title. The rest of the tenth par. was not included in the Code.

The eleventh and twelfth pars. of section 2 are classified to sections 285 and 286, respectively, of this title.

The thirteenth par. of section 2 is classified in part to section 224 of this title and in part to section 281 of this title. The rest of the thirteenth par. was not included in the Code.

The fifth and eighth pars. of section 2 were not included in the Code.

Former section 141 of this title purportedly derived from part of section 2 of act Dec. 23, 1913. But see Codification note set out under former section 141 of this title.

AMENDMENTS

1959—Pub. L. 86-3 required readjustment of districts when the State of Hawaii is admitted to the Union.

1958—Pub. L. 85-508 required readjustment of districts when the State of Alaska is admitted to the Union, and inserted provisions requiring national banks to become members of the Federal Reserve System upon commencing business or within 90 Days after admission into the Union of the State in which they are located.

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

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. C16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. C74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

¹ Capitalized as in original.

§223. Number of Federal reserve cities in district

A Federal reserve district shall contain only one Federal reserve city.
(Dec. 23, 1913, ch. 6, §2 (part), 38 Stat. 251.)

EDITORIAL NOTES

CODIFICATION

Section is based on part of the first par. of section 2 of act Dec. 23, 1913. Some of the other provisions of the first par. are classified to section 222 of this title, and some were not included in the Code. For classification of other pars. of section 2 of this Act, see Codification note under section 222 of this title.

§224. Status of reserve cities under former statutes

The organization of reserve districts and Federal reserve cities shall not be construed as changing the present status of reserve cities except in so far as this chapter changes the amount of reserves that may be carried with approved reserve agents located therein.

(Dec. 23, 1913, ch. 6, §2 (part), 38 Stat. 253; Pub. L. 86–114, §3(b)(5), July 28, 1959, 73 Stat. 264.)

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 the thirteenth par. of section 2 of act Dec. 23, 1913. Some of the other provisions of the thirteenth par. are classified to section 281 of this title, and some were not included in the Code. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 of this title.

PRIOR PROVISIONS

Provisions relating to reserve cities and central reserve cities were contained in R.S. §§5191, 5192, and act Mar. 3, 1887, ch. 378, §§1, 2, 24 Stat. 559, 560.

AMENDMENTS

1959—Pub. L. 86–114 struck out "and central reserve cities" after "reserve cities".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86–114, set out as a Central Reserve and Reserve Cities note under former section 141 of this title.

§225. Federal reserve banks; title

A Federal reserve bank shall include in its title the name of the city in which it is situated, as "Federal Reserve Bank of Chicago."

(Dec. 23, 1913, ch. 6, §2 (part), 38 Stat. 252.)

EDITORIAL NOTES

CODIFICATION

Section is based on part of the second par. of section 2 of act Dec. 23, 1913. The rest of the second par. was not included in the Code. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 of this title.

§225a. Maintenance of long run growth of monetary and credit aggregates

The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates.

(Dec. 23, 1913, ch. 6, §2A, as added Pub. L. 95–188, title II, §202, Nov. 16, 1977, 91 Stat. 1387; amended Pub. L. 95–523, title I, §108(a), Oct. 27, 1978, 92 Stat. 1897; Pub. L. 100–418, title III, §3005(c), Aug. 23, 1988, 102 Stat. 1375; Pub. L. 106–569, title X, §1003(a), Dec. 27, 2000, 114 Stat. 3028.)

EDITORIAL NOTES

CODIFICATION

Another section 202 of Pub. L. 95–188 amended section 302 of this title.

AMENDMENTS

2000—Pub. L. 106–569 struck out provisions after first sentence relating to annual reports to Congress, transmittal of reports to Congressional Committees, consultations with Committees, report of Committee, changing conditions affecting achievement of objectives and plans, and explanation for deviations from objectives and plans.

1988—Pub. L. 100–418 inserted ", including an analysis of the impact of the exchange rate of the dollar on those trends" after "the Nation" in cl. (1).

1978—Pub. L. 95–523 substituted provisions relating to independent written reports of the Board of Governors to the Congress for provisions relating to the consultations of the Board of Governors with Congress at semi-annual hearings, substituted "the objectives and plans with respect to the ranges" for "such ranges", inserted "of the monetary and credit aggregates disclosed in the reports submitted under this section" after "growth or diminution", and inserted proviso respecting the inclusion of an explanation of reasons for revisions or deviations in subsequent consultations and reports.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–523, title I, §108(b), Oct. 27, 1978, 92 Stat. 1898, provided that: "The amendment made by subsection (a) [amending this section] takes effect on January 1, 1979."

§225b. Appearances before and reports to the Congress

(a) Appearances before the Congress

(1) In general

The Chairman of the Board shall appear before the Congress at semi-annual hearings, as specified in paragraph (2), regarding—

(A) the efforts, activities, objectives and plans of the Board and the Federal Open Market Committee with respect to the conduct of monetary policy; and

(B) economic developments and prospects for the future described in the report required in subsection (b).

(2) Schedule

The Chairman of the Board shall appear—

(A) before the Committee on Banking and Financial Services of the House of Representatives on or about February 20 of even numbered calendar years and on or about July 20 of odd numbered calendar years;

(B) before the Committee on Banking, Housing, and Urban Affairs of the Senate on or about July 20 of even numbered calendar years and on or about February 20 of odd numbered calendar years; and

(C) before either Committee referred to in subparagraph (A) or (B), upon request, following the scheduled appearance of the Chairman before the other Committee under subparagraph (A) or (B).

(b) Congressional report

The Board shall, concurrent with each semi-annual hearing required by this section, submit a written report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, containing a discussion of the conduct of monetary policy and economic developments and prospects for the future, taking into account past and prospective developments in employment, unemployment, production, investment, real income, productivity, exchange rates, international trade and payments, and prices.

(c) Public access to information

The Board shall place on its home Internet website, a link entitled "Audit", which shall link to a webpage that shall serve as a repository of information made available to the public for a reasonable period of time, not less than 6 months following the date of release of the relevant information, including—

(1) the reports prepared by the Comptroller General under section 714 of title 31;

(2) the annual financial statements prepared by an independent auditor for the Board in accordance with section 248b of this title;

(3) the reports to the Committee on Banking, Housing, and Urban Affairs of the Senate required under section 343(3) of this title (relating to emergency lending authority); and

(4) such other information as the Board reasonably believes is necessary or helpful to the public in understanding the accounting, financial reporting, and internal controls of the Board and the Federal reserve banks.

(Dec. 23, 1913, ch. 6, §2B, as added Pub. L. 106–569, title X, §1003(b)(1), Dec. 27, 2000, 114 Stat. 3028; amended Pub. L. 111–203, title XI, §1103(a), July 21, 2010, 124 Stat. 2118.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (c). Pub. L. 111–203 added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see

section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

§226. "Federal Reserve Act"

The short title of the Act of December 23, 1913, ch. 6, 38 Stat. 251, shall be the "Federal Reserve Act."

(Dec. 23, 1913, ch. 6, §1 (par.), 38 Stat. 251.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Act of December 23, 1913, ch. 6, referred to in text, is classified to this section, sections 1, 35, 59, 90, 92, 141, 142, 221, 222 to 225b, 241 to 246, 247 to 247b, 248, 248–1, 248a to 248c, 253, 261 to 263, 281 to 290, 301 to 308, 321 to 336, 338 to 339a, 341 to 352, 353 to 361, 371 to 371b, 371b–2 to 376, 391, 392, 393, 411 to 416, 418 to 421, 441 to 448, 461, 462, 462b to 467, 481 to 486, 501a to 506, 521, 522, 531, 601 to 604a, and 611 to 633 of this title and as a provision set out as a note under this section. Subsecs. (a)–(c) and (h)–(k) of section 22 of the Act, which were classified to former sections 593 to 599 of this title, were repealed and restated in sections 217 to 220, 433, 655, 656, 1005, 1014, 1906, and 1909 of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, §§1, 21, 62 Stat. 683, 862, the first section of which enacted Title 18. Sections 217 to 220 of Title 18 were subsequently renumbered sections 212 to 215 of Title 18, respectively, by Pub. L. 87–849, §1(d), Oct. 23, 1962, 76 Stat. 1125. Sections 212 and 213 of Title 18, as renumbered by Pub. L. 87–849, were subsequently repealed by Pub. L. 108–198, §2(a), Dec. 19, 2003, 117 Stat. 2899. For complete classification of this Act to the Code, see Tables.

CODIFICATION

This section is comprised of the first par. of section 1 of act Dec. 23, 1913. The second to fourth pars. of section 1 are classified to section 221 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title II, §2001(a), Sept. 30, 1996, 110 Stat. 3009–394, provided that: "This title [see Tables for classification] may be cited as the 'Economic Growth and Regulatory Paperwork Reduction Act of 1996'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–491, §1, Oct. 24, 1992, 106 Stat. 3144, provided that: "This Act [amending section 522 of this title] may be cited as the 'Federal Reserve Bank Branch Modernization Act'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–86, §1(a), Aug. 10, 1987, 101 Stat. 552, provided that: "This Act [enacting sections 371c–1, 1439–1, 1441, 1442a, 1467, 1467a, 1730h, 1730i, 1772b, 1772c, 3806, and 4001 to 4010 of this title and section 3334 of Title 31, Money and Finance, amending sections 24, 248a, 481, 619, 1430, 1436, 1464, 1467, 1725 to 1727, 1729 to 1730a, 1730h, 1757, 1761a, 1761b, 1764, 1766, 1767, 1785 to 1788, 1813, 1817, 1821, 1823, 1828, 1831d, 1832, 1841 to 1843, 1846, 1849, and 3106 of this title, sections 905 and 906 of Title 2, The Congress, sections 45, 46, and 57a of Title 15, Commerce and Trade, and sections 3328, 3702, 3712, 9101, and 9105 of Title 31, providing for future repeal of sections 1442a, 1467a, and 1730i of this title, enacting provisions set out as notes under sections 226, 248a, 619, 1437, 1441, 1464, 1467, 1467a, 1730, 1730a, 1751, 1811, 1841, and 4001 of this title and section 3328 of Title 31, and amending provisions set out as a note under section 1729 of this title] may be cited as the 'Competitive Equality Banking Act of 1987'."

Pub. L. 100–86, title I, §100, Aug. 10, 1987, 101 Stat. 554, provided that: "This title [enacting section 371c–1 of this title, amending sections 24, 619, 1430, 1730, 1730a, 1813, 1828, 1831d, 1832, 1841 to 1843, and 1846 of this title, and enacting provisions set out as notes under sections 226, 619, 1730a, and 1841 of this title] may be cited as the 'Competitive Equality Amendments of 1987'."

Pub. L. 100–86, title III, §301, Aug. 10, 1987, 101 Stat. 585, provided that: "This title [enacting section 1441 of this title, amending sections 1430, 1436, 1725, 1727, and 1730 of this title and section 9101 of Title

31, Money and Finance, and enacting provisions set out as a note under section 1730 of this title] may be cited as the 'Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987'."

Pub. L. 100-86, title IV, §401, Aug. 10, 1987, 101 Stat. 604, provided that: "This title [enacting sections 1442a, 1467, 1467a, 1730h, and 1730i of this title, amending sections 1464, 1467, 1729 to 1730a, and 1730h of this title, and section 9105 of Title 31, Money and Finance, providing for future repeal of sections 1442a, 1467a, and 1730i of this title, and enacting provisions set out as notes under sections 1437, 1441, 1467, and 1467a of this title] may be cited as the 'Thrift Industry Recovery Act'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-320, §1, Oct. 15, 1982, 96 Stat. 1469, provided that: "This Act [enacting sections 216 to 216d, 1701j-3, 1795j, 1866, 1867, 3208, and 3801 to 3805 of this title and section 1099 of Title 20, Education, amending sections 22, 24, 27, 29, 30, 84, 93, 94, 95, 371, 371c, 375a, 375b, 461, 484, 504, 505, 1425a, 1426, 1428a, 1430, 1431, 1436, 1437, 1462, 1464, 1718, 1719, 1725, 1726, 1727, 1728, 1729, 1730, 1730a, 1752, 1752a, 1753, 1755, 1757, 1760, 1761, 1761a, 1761b, 1761c, 1763, 1764, 1766, 1770, 1771, 1782, 1783, 1785, 1786, 1795f, 1813, 1814, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1831c, 1832, 1841, 1842, 1843, 1847, 1861, 1862, 1863, 1864, 1865, 1972, 3106, 3204, 3305, 3412, 3414, and 3503 of this title, section 109 of Title 11, Bankruptcy, sections 1602 and 1603 of Title 15, Commerce and Trade, and sections 8103 and 8105 of Title 42, The Public Health and Welfare, repealing section 82 of this title and provisions set out as a note under section 461 of this title, enacting provisions set out as notes under this section, sections 84, 371, 371c, 1461, 1464, 1811, 1817, 1823, 3503, and 3801 of this title, and sections 1602 and 1603 of Title 15, and amending provisions set out as notes under sections 92 and 191 of this title] may be cited as the 'Garn-St Germain Depository Institutions Act of 1982'."

Pub. L. 97-320, title IV, §410(a), Oct. 15, 1982, 96 Stat. 1515, provided that: "This section [amending sections 371c, 375b, 1820, 1828 and 1972 of this title, and enacting provisions set out as a note under section 371c of this title] may be cited as the 'Banking Affiliates Act of 1982'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-221, §1, Mar. 31, 1980, 94 Stat. 132, provided that: "This Act [enacting sections 4a, 86a, 93a, 248a, 1730g, 1735f-7a, 1831d, and 3501 to 3524 of this title, and section 1646 of Title 15, Commerce and Trade, amending sections 24, 27, 29, 51b, 51b-1, 72, 85, 92, 95, 214a, 248, 342, 347b, 355, 360, 371a, 412, 461, 463, 481, 1425a, 1425b, 1431, 1464, 1724, 1726, 1728, 1752, 1757, 1763, 1785, 1787, 1795, to 1795i, 1813, 1817, 1821, 1828, 1832, 1842, and 1843 of this title, and sections 57a, 687, 1602 to 1607, 1610, 1612, 1613, 1631, 1632, 1635, 1637, 1638, 1640, 1641, 1643, 1663, 1664, 1665a, 1666, 1666d, 1667d, and 1691f of Title 15, repealing sections 86a, 371b-1, 1730e, and 1831a of this title, and sections 1614, 1636, and 1639 of Title 15, enacting provisions set out as notes under this section, sections 27, 85, 86a, 191, 248, 355, 371a, 1425a, 1724, 1730g, 1735f-7, 1735f-7a, 1787, 1813, 1817, 3101, 3501, and 3521 of this title, and sections 1601, 1602, and 1607 of Title 15, and repealing provisions set out as notes under sections 85, 86a, 371b-1, and 1831a of this title] may be cited as the 'Depository Institutions Deregulation and Monetary Control Act of 1980'."

Pub. L. 96-221, title I, §101, Mar. 31, 1980, 94 Stat. 132, provided that: "This title [enacting section 248a of this title, amending sections 248, 342, 347b, 355, 360, 412, 461, 463, and 1425a of this title and enacting provisions set out as notes under sections 248 and 355 of this title] may be cited as the 'Monetary Control Act of 1980'."

Pub. L. 96-221, title III, §301, Mar. 31, 1980, 94 Stat. 145, provided that: "This title [amending sections 371a, 1431, 1464, 1724, 1728, 1752, 1757, 1763, 1785, 1787, 1795 to 1795i, 1813, 1817, 1821, 1828, and 1832 of this title and enacting provisions set out as notes under sections 371a, 1724, 1787, 1813, and 1817 of this title] may be cited as the 'Consumer Checking Account Equity Act of 1980'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-630, §1, Nov. 10, 1978, 92 Stat. 3641, provided: "That this Act [enacting sections 375b, 504, 505, 635a-1 to 635a-3, 1795 to 1795i, 1831c, 3106a, 3201 to 3207, 3301 to 3308, and 3401 to 3422 of this title, sections 1693 to 1693r of Title 15, Commerce and Trade, and section 2153e-1 of Title 42, The Public Health and Welfare, amending sections 27, 93, 375a, 412, 635, 635e to 635g, 1451, 1462, 1464, 1715z-10, 1726, 1728 to 1730a, 1752 to 1756, 1757 to 1759, 1761 to 1763, 1766, 1767, 1771, 1772a, 1781 to 1789, 1795b to 1795g, 1813, 1817 to 1821, 1828, 1832, 1843, 1844, 1847, 1865, 1972, and 2902 of this title, sections 5108, 5314, and 5315 of Title 5, Government Organization and Employees, sections 709 and 1114 of Title 18, Crimes and Criminal Procedure, and sections 67 and 856 of former Title 31, Money and Finance, enacting provisions set out as notes under sections 27, 93, 375b, 461, 601, 635, 1451, 1728, 1730, 1751, 1752, 1795, 1817, 1832, 3201, 3301, 3401, and 3415 of this title, and sections 1601 and 1693 of Title 15; and

amending provisions set out as notes under this section, section 461 of this title, and section 1666f of Title 15] may be cited as the 'Financial Institutions Regulatory and Interest Rate Control Act of 1978'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–188, title II, §201, Nov. 16, 1977, 91 Stat. 1387, provided that: "This title [enacting section 225a of this title, amending sections 242 and 302 of this title and section 208 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as a note under section 242 of this title] may be cited as the 'Federal Reserve Reform Act of 1977'."

SHORT TITLE OF 1932 AMENDMENT

Act Feb. 27, 1932, ch. 58, 47 Stat. 56, which enacted sections 347a and 347b of this title, and amended section 412 of this title, is popularly known as the Glass-Steagall Act, 1932.

SEPARABILITY; RIGHT TO AMEND, ALTER OR REPEAL

Pub. L. 100–86, title XII, §1205, Aug. 10, 1987, 101 Stat. 663, provided that: "If any provision of this Act [see Short Title of 1987 Amendment note above] or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

Act Dec. 23, 1913, ch. 6, §§30, 31, formerly §§29, 30, 38 Stat. 275, renumbered §§30, 31, Pub. L. 95–630, title I, §101, Nov. 10, 1978, 92 Stat. 3641, provided:

"SEC. 30. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

"SEC. 31. The right to amend, alter, or repeal this Act is hereby expressly reserved."

§227. "Banking Act of 1933"

The short title of the Act of June 16, 1933, ch. 89, 48 Stat. 162, shall be the "Banking Act of 1933."

(June 16, 1933, ch. 89, §1, 48 Stat. 162.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Banking Act of 1933, also known as the Glass-Steagall Act, 1933, referred to in text, is classified to sections 24, 33, 34a, 36, 51, 52, 61, 64a, 71a, 77, 78, 84, 85, 161, 197a, 221a, 227, 242, 244, 248, 289, 301, 304, 321, 329, 333 to 338, 347, 348a, 371b, 371c, 371d, 374a, 375a, 377, 378, 481, and 632 of this title. For complete classification of this Act to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

RIGHT TO AMEND, ALTER OR REPEAL; SEPARABILITY

Act June 16, 1933, ch. 89, §34, 48 Stat. 195, provided: "The right to alter, amend, or repeal this Act is hereby expressly reserved. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby".

§228. "Banking Act of 1935"

The act of August 23, 1935, ch. 614, 49 Stat. 684, may be cited as the "Banking Act of 1935."
(Aug. 23, 1935, ch. 614, §1, 49 Stat. 684.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Banking Act of 1935, referred to in text, is classified to sections 2, 24, 33 to 34c, 35, 36, 51, 51a, 51b–1, 52, 59 to 61, 64a, 71a, 78, 84, 85, 170, 181, 192, 221a, 228, 241, 242, 244, 247a, 248, 263, 287, 288, 321, 324, 336, 341, 343, 347b, 352a, 355, 357, 371, 371b, 371c, 375a, 377, 378, 461, 462a–1, 462b, 465, 481, 482, 486, 619, 1702, 1703, 1709, and 1713 of this title; section 101 of Title 11, Bankruptcy; section 19 of Title 15, Commerce and Trade. See, also, sections 217, 218, 334, 655, 656, 709, 1005, 1906, 1909, and 2113 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SEPARABILITY

Act Aug. 23, 1935, ch. 614, title III, §346, 49 Stat. 723, provided: "If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons and circumstances, shall not be affected thereby."

SUBCHAPTER II—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

§241. Creation; membership; compensation and expenses

The Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, after August 23, 1935, for terms of fourteen years except as hereinafter provided, but each appointive member of the Federal Reserve Board in office on such date shall continue to serve as a member of the Board until February 1, 1936, and the Secretary of the Treasury and the Comptroller of the Currency shall continue to serve as members of the Board until February 1, 1936. In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. In selecting members of the Board, the President shall appoint at least 1 member with demonstrated primary experience working in or supervising community banks having less than \$10,000,000,000 in total assets. The members of the Board shall devote their entire time to the business of the Board and shall each receive basic compensation at the rate of \$15,000 per annum, payable monthly, together with actual necessary traveling expenses.

(Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; Aug. 23, 1935, ch. 614, title II, §203(b), 49 Stat. 704; Pub. L. 114–1, title I, §109(a), Jan. 12, 2015, 129 Stat. 9.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of first par. of section 10 of act Dec. 23, 1913. Pars. 2–7 and 8 of section 10; par. 9 of section 10, as added June 3, 1922, ch. 205, 42 Stat. 621; par. 10 of section 10, as added Aug. 23, 1935, ch. 614, §203(d), 49 Stat. 705; and par. (12) of section 10, as added Pub. L. 111–203, title XI, §1108(b), July 21, 2010, 124 Stat. 2126, are classified to sections 242 to 247, 1, 522, 247a, and 247b, respectively, of this title. No par. between pars. (10) and (12) has been enacted.

AMENDMENTS

2015—Pub. L. 114–1 inserted after second sentence "In selecting members of the Board, the President shall appoint at least 1 member with demonstrated primary experience working in or supervising community banks having less than \$10,000,000,000 in total assets."

1935—Act Aug. 23, 1935, §203(b), increased the appointive membership from six to seven, terminated the membership of the Secretary of the Treasury and the Comptroller of the Currency, raised the tenure from

twelve to fourteen years and increased the annual salary from \$12,000 to \$15,000.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Act Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704, provided that: "Hereafter the Federal Reserve Board shall be known as the 'Board of Governors of the Federal Reserve System,' and the governor and the vice governor of the Federal Reserve Board shall be known as the 'chairman' and the 'vice chairman,' respectively, of the Board of Governors of the Federal Reserve System."

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–1, title I, §109(b), Jan. 12, 2015, 129 Stat. 9, provided that: "The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [Jan. 12, 2015] and apply to appointments made on and after that effective date, excluding any nomination pending in the Senate on that date."

REPEALS

Act Oct. 15, 1949, ch. 695, §4, 63 Stat. 880, formerly cited as a credit to this section, which was used as authority to substitute "\$16,000" for "\$15,000" in the last sentence, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 655.

GENERAL ACCOUNTING OFFICE STUDY OF CONFLICTS OF INTEREST

Pub. L. 106–102, title VII, §728, Nov. 12, 1999, 113 Stat. 1475, provided that the Comptroller General of the United States was to conduct a study analyzing the conflict of interest faced by the Board of Governors of the Federal Reserve System between its role as a primary regulator of the banking industry and its role as a vendor of services to the banking and financial services industry and, before the end of the 1-year period beginning on Nov. 12, 1999, submit a report to the Congress, together with recommendations for such legislative or administrative actions as the Comptroller General determined to be appropriate.

COMPENSATION OF BOARD OF GOVERNORS

Annual basic compensation of Chairman and Members of Board of Governors, see sections 5313 and 5314 of Title 5, Government Organization and Employees.

§242. Ineligibility to hold office in member banks; qualifications and terms of office of members; chairman and vice chairman; oath of office

The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Upon the expiration of the term of any appointive member of the Federal Reserve Board in office on August 23, 1935, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years, and 2 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairmen of the Board, each for a term of 4 years, 1 of whom shall serve in the absence of the Chairman, as provided in section 244 of this title, and 1 of whom shall be designated Vice Chairman for Supervision. The Vice Chairman for Supervision shall develop policy recommendations for the Board regarding supervision and regulation of depository institution holding companies and other financial firms supervised by the Board, and shall oversee the supervision and regulation of such firms. The Chairman of the Board, subject to its supervision, shall be its active executive officer. Each member of the Board shall within fifteen days after notice of appointment make and subscribe to the oath of office. Upon the expiration

of their terms of office, members of the Board shall continue to serve until their successors are appointed and have qualified. Any person appointed as a member of the Board after August 23, 1935, shall not be eligible for reappointment as such member after he shall have served a full term of fourteen years.

(Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; June 16, 1933, ch. 89, §6(a), 48 Stat. 166; Aug. 23, 1935, ch. 614, title II, §203(b), 49 Stat. 704; Pub. L. 95-188, title II, §204(a), Nov. 16, 1977, 91 Stat. 1388; Pub. L. 111-203, title XI, §1108(a)(1), July 21, 2010, 124 Stat. 2126.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of second par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see note set out under section 241 of this title.

AMENDMENTS

2010—Pub. L. 111-203 substituted "Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years, and 2 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairmen of the Board, each for a term of 4 years, 1 of whom shall serve in the absence of the Chairman, as provided in section 244 of this title, and 1 of whom shall be designated Vice Chairman for Supervision. The Vice Chairman for Supervision shall develop policy recommendations for the Board regarding supervision and regulation of depository institution holding companies and other financial firms supervised by the Board, and shall oversee the supervision and regulation of such firms." for "Of the persons thus appointed, one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the consent of the Senate, to serve as Vice Chairman of the Board for a term of four years."

1977—Pub. L. 95-188 substituted in third sentence "one shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years, and one shall be designated by the President, by and with the consent of the Senate, to serve as Vice Chairman of the Board for a term of four years" for "one shall be designated by the President as chairman and one as vice chairman of the Board, to serve as such for a term of four years".

1935—Act Aug. 23, 1935, §203(b), extended term of appointive members from twelve to fourteen years, and inserted provisions for continuance in office until successor qualified and against reappointment.

1933—Act June 16, 1933, extended term of appointive members from ten to twelve years.

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.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-203, title XI, §1108(a)(2), July 21, 2010, 124 Stat. 2126, provided that: "The amendment made by subsection (a) [amending this section] takes effect on the date of enactment of this title [July 21, 2010] and applies to individuals who are designated by the President on or after that date to serve as Vice Chairman of Supervision."

EFFECTIVE DATE OF 1977 AMENDMENT; APPLICABILITY

Pub. L. 95-188, title II, §204(b), Nov. 16, 1977, 91 Stat. 1388, provided that: "The amendment made by subsection (a) [amending this section] takes effect on January 1, 1979, and applies to individuals who are designated by the President on or after such date to serve as Chairman or Vice Chairman of the Board of Governors of the Federal Reserve System."

REPEALS

Act Mar. 3, 1919, ch. 101, §2, 40 Stat. 1315, formerly cited as a credit to this section, was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 644.

COMPENSATION OF CHAIRMAN OF BOARD

Annual basic compensation of Chairman of Board of Governors, see section 5313 of Title 5, Government Organization and Employees.

§243. Assessments upon Federal reserve banks to pay expenses

The Board of Governors of the Federal Reserve System shall have power to levy semiannually upon the Federal reserve banks, in proportion to their capital stock and surplus, an assessment sufficient to pay its estimated expenses and the salaries of its members and employees for the half year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half year, and such assessments may include amounts sufficient to provide for the acquisition by the Board in its own name of such site or building in the District of Columbia as in its judgment alone shall be necessary for the purpose of providing suitable and adequate quarters for the performance of its functions. After September 1, 2000, the Board may also use such assessments to acquire, in its own name, a site or building (in addition to the facilities existing on such date) to provide for the performance of the functions of the Board. After approving such plans, estimates, and specifications as it shall have caused to be prepared, the Board may, notwithstanding any other provision of law, cause to be constructed on any site so acquired by it a building or buildings suitable and adequate in its judgment for its purposes and proceed to take all such steps as it may deem necessary or appropriate in connection with the construction, equipment, and furnishing of such building or buildings. The Board may maintain, enlarge, or remodel any building or buildings so acquired or constructed and shall have sole control of such building or buildings and space therein. (Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; June 19, 1934, ch. 653, §4, 48 Stat. 1108; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 106-569, title X, §1001, Dec. 27, 2000, 114 Stat. 3027.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of third par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see note set out under section 241 of this title.

AMENDMENTS

2000—Pub. L. 106-569 inserted "After September 1, 2000, the Board may also use such assessments to acquire, in its own name, a site or building (in addition to the facilities existing on such date) to provide for the performance of the functions of the Board." after first sentence, inserted "or buildings" after "building" wherever appearing in third and fourth sentences, and substituted "constructed on any site" for "constructed on the site" in third sentence.

1934—Act June 19, 1934, inserted provisions after "the preceding half year" in first sentence and inserted second and third sentences.

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.

§244. Principal offices of Board; chairman of Board; obligations and expenses; qualifications of members; vacancies

The principal offices of the Board shall be in the District of Columbia. At meetings of the Board the chairman shall preside, and, in his absence, the vice chairman shall preside. In the absence of the

chairman and the vice chairman, the Board shall elect a member to act as chairman pro tempore. The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this chapter and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys. No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath that he has complied with this requirement, and such certification shall be filed with the secretary of the Board. Whenever a vacancy shall occur, other than by expiration of term, among the seven members of the Board of Governors of the Federal Reserve System appointed by the President as above provided, a successor shall be appointed by the President, by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor.

(Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; June 16, 1933, ch. 89, §6(b), 48 Stat. 167; Aug. 23, 1935, ch. 614, title II, §203(a)–(c), 49 Stat. 704, 705.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act, specific amendments thereof", 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 fourth par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

Word "seven" was substituted for "six" in last sentence on authority of section 203(b) of act Aug. 23, 1935, which increased membership of the Board of Governors.

AMENDMENTS

1935—Act Aug. 23, 1935, §203(c), substituted second and third sentences for former related provisions.

1933—Act June 16, 1933, fixed the principal offices of the Board, made the Secretary of the Treasury chairman, provided for chairman pro tempore, and referred to disbursements, obligations, salaries and leaves.

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.

§245. Vacancies during recess of Senate

The President shall have power to fill all vacancies that may happen on the Board of Governors of the Federal Reserve System during the recess of the Senate by granting commissions which shall expire with the next session of the Senate.

(Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of fifth par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see Codification note set out under section 241 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.

§246. Powers of Secretary of the Treasury as affected by chapter

Nothing in this chapter contained shall be construed as taking away any powers heretofore vested by law in the Secretary of the Treasury which relate to the supervision, management, and control of the Treasury Department and bureaus under such department, and wherever any power vested by this chapter in the Board of Governors of the Federal Reserve System or the Federal reserve agent appears to conflict with the powers of the Secretary of the Treasury, such powers shall be exercised subject to the supervision and control of the Secretary.

(Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

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 sixth par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see Codification note set out under section 241 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.

§247. Reports to Congress

The Board of Governors of the Federal Reserve System shall annually make a full report of its operations to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of the Congress. The report required under this paragraph shall include the reports required under section 1691f of title 15, section 57a(f)(7) ¹ of title 15, section 1613 of title 15, and section 247a of this title.

(Dec. 23, 1913, ch. 6, §10 (par.), 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 106–569, title XI, §1103(b), Dec. 27, 2000, 114 Stat. 3030.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 57a(f)(7) of title 15, referred to in text, was repealed by Pub. L. 111–203, title X, §1092(3), July 21, 2010, 124 Stat. 2095.

CODIFICATION

Section is comprised of seventh par. of section 10 of act Dec. 23, 1913. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

AMENDMENTS

2000—Pub. L. 106–569 inserted at end "The report required under this paragraph shall include the reports required under section 1691f of title 15, section 57a(f)(7) of title 15, section 1613 of title 15, and section 247a 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.

MEMBERSHIP OF INTERNATIONAL BANKS IN FEDERAL RESERVE SYSTEM; REPORT TO CONGRESS

Pub. L. 95–369, §3(g), Sept. 17, 1978, 92 Stat. 610, provided that the Board report to Congress not later than 270 days after Sept. 17, 1978 recommendations with respect to permitting corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act to become members of Federal Reserve Banks.

EFFECT OF INTERNATIONAL BANKING ACT OF 1978 ON INTERNATIONAL BANKS; REPORT TO CONGRESS

Pub. L. 95–369, §3(h), Sept. 17, 1978, 92 Stat. 610, provided that: "As part of its annual report pursuant to section 10 of the Federal Reserve Act [this section], the Board shall include its assessment of the effects of the amendments made by this Act [see Short Title note set out under section 3101 of this title] on the capitalization and activities of corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act [sections 601 to 604 and 611 to 631 of this title], and on commercial banks and the banking system."

¹ [*See References in Text note below.*](#)

§247a. Records of action on policy relating to open-market operation and policies determined generally; inclusion in report to Congress

The Board of Governors of the Federal Reserve System shall keep a complete record of the action taken by the Board and by the Federal Open Market Committee upon all questions of policy relating to open-market operations and shall record therein the votes taken in connection with the determination of open-market policies and the reasons underlying the action of the Board and the Committee in each instance. The Board shall keep a similar record with respect to all questions of policy determined by the Board, and shall include in its annual report to the Congress a full account of the action so taken during the preceding year with respect to open-market policies and operations and with respect to the policies determined by it and shall include in such report a copy of the records required to be kept under the provisions of this section.

(Dec. 23, 1913, ch. 6, §10 (par.), as added Aug. 23, 1935, ch. 614, title II, §203(d), 49 Stat. 705.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of tenth par. of section 10 of act Dec. 23, 1913, as added Aug. 23, 1935. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

§247b. Appearances before Congress

The Vice Chairman for Supervision shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Board with respect to the conduct of supervision and regulation of depository institution holding companies and other financial firms supervised by the Board.

(Dec. 23, 1913, ch. 6, §10(12), as added Pub. L. 111–203, title XI, §1108(b), July 21, 2010, 124 Stat. 2126.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of par. (12) of section 10 of act Dec. 23, 1913. No par. between pars. (10) and (12) has been enacted. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

§248. Enumerated powers

The Board of Governors of the Federal Reserve System shall be authorized and empowered:

(a) Examination of accounts and affairs of banks; publication of weekly statements; reports of liabilities and assets of depository institutions; covered institutions

(1) To examine at its discretion the accounts, books, and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. The said board shall publish once each week a statement showing the condition of each Federal reserve bank and a consolidated statement for all Federal reserve banks. Such statements shall show in detail the assets and liabilities of the Federal reserve banks, single and combined, and shall furnish full information regarding the character of the money held as reserve and the amount, nature, and maturities of the paper and other investments owned or held by Federal reserve banks.

(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under sections 461, 463, 464, 465, and 466 of this title exceed zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State savings associations that are insured depository institutions (as defined in section 1813 of this title), State nonmember banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) the Comptroller of the Currency in the case of any Federal savings association which is an insured depository institution (as defined in section 1813 of this title) or which is a member as defined in section 1422 of this title, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting requirements. Except as otherwise required by law, any data provided to any department, agency, or instrumentality of the

United States pursuant to other reporting requirements shall be made available to the Board. The Board may classify depository institutions for the purposes of this paragraph and may impose different requirements on each such class.

(b) Permitting or requiring rediscounting of paper at specified rate

To permit, or, on the affirmative vote of at least five members of the Board of Governors, to require Federal reserve banks to rediscount the discounted paper of other Federal reserve banks at rates of interest to be fixed by the Board.

(c) Suspending reserve requirements

To suspend for a period not exceeding thirty days, and from time to time to renew such suspension for periods not exceeding fifteen days, any reserve requirements specified in this chapter.

(d) Supervising and regulating issue and retirement of notes

To supervise and regulate through the Secretary of the Treasury the issue and retirement of Federal Reserve notes, except for the cancellation and destruction, and accounting with respect to such cancellation and destruction, of notes unfit for circulation, and to prescribe rules and regulations under which such notes may be delivered by the Secretary of the Treasury to the Federal Reserve agents applying therefor.

(e) Adding to or reclassifying reserve cities

To add to the number of cities classified as reserve cities under existing law in which national banking associations are subject to the reserve requirements set forth in section 20 of this Act, or to reclassify existing reserve cities or to terminate their designation as such.

(f) Suspending or removing officers or directors of reserve banks

To suspend or remove any officer or director of any Federal reserve bank, the cause of such removal to be forthwith communicated in writing by the Board of Governors of the Federal Reserve System to the removed officer or director and to said bank.

(g) Requiring writing off of doubtful or worthless assets of banks

To require the writing off of doubtful or worthless assets upon the books and balance sheets of Federal reserve banks.

(h) Suspending operations of or liquidating or reorganizing banks

To suspend, for the violation of any of the provisions of this chapter, the operations of any Federal reserve bank, to take possession thereof, administer the same during the period of suspension, and, when deemed advisable, to liquidate or reorganize such bank.

(i) Requiring bonds of agents; safeguarding property in hands of agents

To require bonds of Federal reserve agents, to make regulations for the safeguarding of all collateral, bonds, Federal reserve notes, money, or property of any kind deposited in the hands of such agents, and said board shall perform the duties, functions, or services specified in this chapter, and make all rules and regulations necessary to enable said board effectively to perform the same.

(j) Exercising supervision over reserve banks

To exercise general supervision over said Federal reserve banks.

(k) Delegation of certain functions; power to delegate; review of delegated activities

To delegate, by published order or rule and subject to subchapter II of chapter 5, and chapter 7, of title 5, any of its functions, other than those relating to rulemaking or pertaining principally to monetary and credit policies, to one or more administrative law judges, members or employees of the Board, or Federal Reserve banks. The assignment of responsibility for the performance of any function that the Board determines to delegate shall be a function of the Chairman. The Board shall, upon the vote of one member, review action taken at a delegated level within such time and in such manner as the Board shall by rule prescribe. The Board of Governors may not delegate to a Federal reserve bank its functions for the establishment of policies for the supervision and regulation of

depository institution holding companies and other financial firms supervised by the Board of Governors.

(l) Employing attorneys, experts, assistants, and clerks; salaries and fees

To employ such attorneys, experts, assistants, clerks, or other employees as may be deemed necessary to conduct the business of the board. All salaries and fees shall be fixed in advance by said board and shall be paid in the same manner as the salaries of the members of said board. All such attorneys, experts, assistants, clerks, and other employees shall be appointed without regard to the provisions of the Act of January sixteenth, eighteen hundred and eighty-three (volume twenty-two, United States Statutes at Large, page four hundred and three), and amendments thereto, or any rule or regulation made in pursuance thereof: *Provided*, That nothing herein shall prevent the President from placing said employees in the classified service.

(m) [Repealed]

(n) Board's authority to examine depository institutions and affiliates

To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this chapter.

(o) Authority to appoint conservator or receiver

The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 1821(c)(9) of this title.

(p) Authority

The Board may act in its own name and through its own attorneys in enforcing any provision of this title,¹ regulations promulgated hereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Board is a party and which involves the Board's regulation or supervision of any bank, bank holding company (as defined in section 1841 of this title), or other entity, or the administration of its operations.

(q) Uniform protection authority for Federal reserve facilities

(1) Notwithstanding any other provision of law, to authorize personnel to act as law enforcement officers to protect and safeguard the premises, grounds, property, personnel, including members of the Board, of the Board, or any Federal reserve bank, and operations conducted by or on behalf of the Board or a reserve bank.

(2) The Board may, subject to the regulations prescribed under paragraph (5), delegate authority to a Federal reserve bank to authorize personnel to act as law enforcement officers to protect and safeguard the bank's premises, grounds, property, personnel, and operations conducted by or on behalf of the bank.

(3) Law enforcement officers designated or authorized by the Board or a reserve bank under paragraph (1) or (2) are authorized while on duty to carry firearms and make arrests without warrants for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States committed or being committed within the buildings and grounds of the Board or a reserve bank if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony. Such officers shall have access to law enforcement information that may be necessary for the protection of the property or personnel of the Board or a reserve bank.

(4) For purposes of this subsection, the term "law enforcement officers" means personnel who have successfully completed law enforcement training and are authorized to carry firearms and make arrests pursuant to this subsection.

(5) The law enforcement authorities provided for in this subsection may be exercised only pursuant to regulations prescribed by the Board and approved by the Attorney General.

(r) Voting; documentation of determinations

(1) Any action that this chapter provides may be taken only upon the affirmative vote of 5

members of the Board may be taken upon the unanimous vote of all members then in office if there are fewer than 5 members in office at the time of the action.

(2)(A) Any action that the Board is otherwise authorized to take under section 343(3) of this title may be taken upon the unanimous vote of all available members then in office, if—

- (i) at least 2 members are available and all available members participate in the action;
- (ii) the available members unanimously determine that—

(I) unusual and exigent circumstances exist and the borrower is unable to secure adequate credit accommodations from other sources;

(II) action on the matter is necessary to prevent, correct, or mitigate serious harm to the economy or the stability of the financial system of the United States;

(III) despite the use of all means available (including all available telephonic, telegraphic, and other electronic means), the other members of the Board have not been able to be contacted on the matter; and

(IV) action on the matter is required before the number of Board members otherwise required to vote on the matter can be contacted through any available means (including all available telephonic, telegraphic, and other electronic means); and

(iii) any credit extended by a Federal reserve bank pursuant to such action is payable upon demand of the Board.

(B) The available members of the Board shall document in writing the determinations required by subparagraph (A)(ii), and such written findings shall be included in the record of the action and in the official minutes of the Board, and copies of such record shall be provided as soon as practicable to the members of the Board who were not available to participate in the action and to the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Chairman of the Committee on Financial Services of the House of Representatives.

(s) ² Federal Reserve transparency and release of information

(1) In general

In order to ensure the disclosure in a timely manner consistent with the purposes of this chapter of information concerning the borrowers and counterparties participating in emergency credit facilities, discount window lending programs, and open market operations authorized or conducted by the Board or a Federal reserve bank, the Board of Governors shall disclose, as provided in paragraph (2)—

(A) the names and identifying details of each borrower, participant, or counterparty in any credit facility or covered transaction;

(B) the amount borrowed by or transferred by or to a specific borrower, participant, or counterparty in any credit facility or covered transaction;

(C) the interest rate or discount paid by each borrower, participant, or counterparty in any credit facility or covered transaction; and

(D) information identifying the types and amounts of collateral pledged or assets transferred in connection with participation in any credit facility or covered transaction.

(2) Mandatory release date

In the case of—

(A) a credit facility, the Board shall disclose the information described in paragraph (1) on the date that is 1 year after the effective date of the termination by the Board of the authorization of the credit facility; and

(B) a covered transaction, the Board shall disclose the information described in paragraph (1) on the last day of the eighth calendar quarter following the calendar quarter in which the covered transaction was conducted.

(3) Earlier release date authorized

The Chairman of the Board may publicly release the information described in paragraph (1)

before the relevant date specified in paragraph (2), if the Chairman determines that such disclosure would be in the public interest and would not harm the effectiveness of the relevant credit facility or the purpose or conduct of covered transactions.

(4) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Credit facility

The term "credit facility" has the same meaning as in section 714(f)(1)(A) of title 31.

(B) Covered transaction

The term "covered transaction" means—

- (i) any open market transaction with a nongovernmental third party conducted under section 353 of this title or section 354, 355, or 356 of this title, after July 21, 2010; and
- (ii) any advance made under section 347b of this title after July 21, 2010.

(5) Termination of credit facility by operation of law

A credit facility shall be deemed to have terminated as of the end of the 24-month period beginning on the date on which the credit facility ceases to make extensions of credit and loans, unless the credit facility is otherwise terminated by the Board before such date.

(6) Consistent treatment of information

Except as provided in this subsection or section 343(3)(D) of this title, or in section 714(f)(3)(C) of title 31, the information described in paragraph (1) and information concerning the transactions described in section 714(f) of such title, shall be confidential, including for purposes of section 552(b)(3) of title 5, until the relevant mandatory release date described in paragraph (2), unless the Chairman of the Board determines that earlier disclosure of such information would be in the public interest and would not harm the effectiveness of the relevant credit facility or the purpose of conduct of the relevant transactions.

(7) Protection of personal privacy

This subsection and section 343(3)(C) of this title, section 714(f)(3)(C) of title 31, and subsection (a) or (c) of section 1109 of the Dodd-Frank Wall Street Reform and Consumer Protection Act shall not be construed as requiring any disclosure of nonpublic personal information (as defined for purposes of section 6802 of title 15) concerning any individual who is referenced in collateral pledged or assets transferred in connection with a credit facility or covered transaction, unless the person is a borrower, participant, or counterparty under the credit facility or covered transaction.

(8) Study of FOIA exemption impact

(A) Study

The Inspector General of the Board of Governors of the Federal Reserve System shall—

- (i) conduct a study on the impact that the exemption from section 552(b)(3) of title 5 (known as the Freedom of Information Act) established under paragraph (6) has had on the ability of the public to access information about the administration by the Board of Governors of emergency credit facilities, discount window lending programs, and open market operations; and
- (ii) make any recommendations on whether the exemption described in clause (i) should remain in effect.

(B) Report

Not later than 30 months after July 21, 2010, the Inspector General of the Board of Governors of the Federal Reserve System shall submit a report on the findings of the study required under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and publish the report on the website of the Board.

(9) Rule of construction

Nothing in this section is meant to affect any pending litigation or lawsuit filed under section 552 of title 5 (popularly known as the Freedom of Information Act) on or before July 21, 2010.

(s) ² Assessments, fees, and other charges for certain companies

(1) In general

The Board shall collect a total amount of assessments, fees, or other charges from the companies described in paragraph (2) that is equal to the total expenses the Board estimates are necessary or appropriate to carry out the supervisory and regulatory responsibilities of the Board with respect to such companies.

(2) Companies

The companies described in this paragraph are—

(A) all bank holding companies having total consolidated assets of \$100,000,000,000 or more;

(B) all savings and loan holding companies having total consolidated assets of \$100,000,000,000 or more; and

(C) all nonbank financial companies supervised by the Board under section 5323 of this title.

(3) Tailoring assessments

In collecting assessments, fees, or other charges under paragraph (1) from each company described in paragraph (2) with total consolidated assets of between \$100,000,000,000 and \$250,000,000,000, the Board shall adjust the amount charged to reflect any changes in supervisory and regulatory responsibilities resulting from the Economic Growth, Regulatory Relief, and Consumer Protection Act with respect to each such company.

(Dec. 23, 1913, ch. 6, §11, 38 Stat. 261; Sept. 7, 1916, ch. 461, 39 Stat. 752; Sept. 26, 1918, ch. 177, §2, 40 Stat. 968; Mar. 3, 1919, ch. 101, §3, 40 Stat. 1315; Feb. 27, 1921, ch. 75, 41 Stat. 1146; June 26, 1930, ch. 612, 46 Stat. 814; Mar. 9, 1933, ch. 1, title I, §3, 48 Stat. 2; June 16, 1933, ch. 89, §7, 48 Stat. 167; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §§321(a), 342, 49 Stat. 704, 713, 722; June 12, 1945, ch. 186, §1(c), 59 Stat. 237; Pub. L. 86–114, §3(b)(6), July 28, 1959, 73 Stat. 264; Pub. L. 86–251, §3(c), Sept. 9, 1959, 73 Stat. 488; Pub. L. 87–722, §3, Sept. 28, 1962, 76 Stat. 670; Pub. L. 89–427, §2, May 20, 1966, 80 Stat. 161; Pub. L. 89–765, Nov. 5, 1966, 80 Stat. 1314; Pub. L. 90–269, §1, Mar. 18, 1968, 82 Stat. 50; Pub. L. 95–251, §2(a)(3), Mar. 27, 1978, 92 Stat. 183; Pub. L. 96–221, title I, §102, Mar. 31, 1980, 94 Stat. 132; Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068; Pub. L. 97–457, §17(b), Jan. 12, 1983, 96 Stat. 2509; Pub. L. 101–73, title VII, §744(i)(1), Aug. 9, 1989, 103 Stat. 439; Pub. L. 102–242, title I, §§133(f), 142(c), Dec. 19, 1991, 105 Stat. 2273, 2281; Pub. L. 102–550, title XVI, §1603(d)(9), Oct. 28, 1992, 106 Stat. 4080; Pub. L. 103–325, title III, §§322(d), 331(d), title VI, §602(g)(2), Sept. 23, 1994, 108 Stat. 2227, 2232, 2293; Pub. L. 106–102, title VII, §735, Nov. 12, 1999, 113 Stat. 1479; Pub. L. 107–56, title III, §364, Oct. 26, 2001, 115 Stat. 333; Pub. L. 107–297, title III, §301, Nov. 26, 2002, 116 Stat. 2340; Pub. L. 111–203, title III, §§318(c), 366(1), title XI, §§1103(b), 1108(c), July 21, 2010, 124 Stat. 1527, 1556, 2118, 2126; Pub. L. 115–174, title IV, §401(c)(2), May 24, 2018, 132 Stat. 1358.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 461, 463, 464, 465, and 466 of this title, referred to in subsec. (a)(2), was in the original "section 19 of the Federal Reserve Act". Provisions of section 19 relating to reserve requirements are classified to the cited sections. For complete classification of section 19 to the Code, see References in Text note set out under section 461 of this title.

This chapter, referred to in subsecs. (c), (h), (i), (n), and (r)(1) and in par. (1) of the first subsec. (s) (relating to Federal Reserve transparency and release of information), 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.

Reference in subsec. (e) to "section 20 of this Act" means section 20 of the Federal Reserve Act which is not classified to the Code. Since section 20 does not set forth any reserve requirements, section 19 of the Federal Reserve Act might have been intended. For provisions of section 19 relating to reserve requirements, see note above.

The Act of January sixteenth, eighteen hundred and eighty-three, referred to in subsec. (l), is act Jan. 16, 1883, ch. 27, 22 Stat. 403, which enacted section 42 of former Title 40, Public Buildings, Property, and Works, and sections 632, 633, 635, 637, 638, and 640 to 642a of former Title 5, Executive Departments and Government Officers and Employees. For complete classification of this Act to the Code, see Tables. Section 42 of former Title 40 was repealed and reenacted as section 8165 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. The sections that were classified to former Title 5 were repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 632, the first section of which enacted Title 5, Government Organization and Employees. For distribution of former sections of Title 5 into the revised Title 5, see table at the beginning of Title 5.

This title, referred to in subsec. (p), probably should read "this Act", meaning act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act, which does not contain titles. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

Subsection (a) or (c) of section 1109 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in par. (7) of the first subsec. (s) (relating to Federal Reserve transparency and release of information), is subsec. (a) or (c) of section 1109 of Pub. L. 111-203, title XI, 124 Stat. 2127, 2128, which is not classified to the Code.

July 21, 2010, referred to in par. (8)(B) of the first subsec. (s) (relating to Federal Reserve transparency and release of information), was in the original "the date of enactment of this section", which was translated as meaning the date of enactment of Pub. L. 111-203 which added such subsec. (s), to reflect the probable intent of Congress.

The Economic Growth, Regulatory Relief, and Consumer Protection Act, referred to in par. (3) of the second subsec. (s) (relating to assessments, fees, and other charges for certain companies), is Pub. L. 115-174, May 24, 2018, 132 Stat. 1296. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 1601 of Title 15, Commerce and Trade, and Tables.

CODIFICATION

In subsec. (k), "subchapter II of chapter 5, and chapter 7, of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section is comprised of section 11 of act Dec. 23, 1913. The fourteenth par. of section 16 of act Dec. 23, 1913, which formerly constituted subsec. (o) of this section, is now classified to section 248-1 of this title.

AMENDMENTS

2018—Subsec. (s)(2). Pub. L. 115-174, §401(c)(2)(A), substituted "\$100,000,000,000" for "\$50,000,000,000" in subpars. (A) and (B).

Subsec. (s)(3). Pub. L. 115-174, §401(c)(2)(B), added par. (3).

2010—Subsec. (a)(2). Pub. L. 111-203, §366(1)(A), which directed insertion of "State savings associations that are insured depository institutions (as defined in section 1813 of this title)," after "case of insured", was executed by making the insertion after "case of insured" in subpar. (B)(i), to reflect the probable intent of Congress.

Subsec. (a)(2)(B)(iii). Pub. L. 111-203, §366(1)(B), (C), substituted "Comptroller of the Currency" for "Director of the Office of Thrift Supervision" and inserted "Federal" before "savings association which".

Subsec. (a)(2)(B)(iv). Pub. L. 111-203, §366(1)(D), substituted "savings association" for "savings and loan association".

Subsec. (k). Pub. L. 111-203, §1108(c), inserted at end "The Board of Governors may not delegate to a Federal reserve bank its functions for the establishment of policies for the supervision and regulation of depository institution holding companies and other financial firms supervised by the Board of Governors."

Subsec. (s). Pub. L. 111-203, §1103(b), added subsec. (s) relating to Federal Reserve transparency and release of information.

Pub. L. 111-203, §318(c), added subsec. (s) relating to assessments, fees, and other charges for certain companies.

2002—Subsec. (r). Pub. L. 107-297 added subsec. (r).

2001—Subsec. (q). Pub. L. 107-56 added subsec. (q).

1999—Subsec. (m). Pub. L. 106-102 substituted "[Repealed]" for text of subsec. (m) which related to

percentage of capital and surplus represented by loans to be determined by the Federal Reserve Board.

1994—Subsec. (d). Pub. L. 103–325, §602(g)(2), substituted "Secretary of the Treasury" for "bureau under the charge of the Comptroller of the Currency" before "the issue and retirement" and for "Comptroller" before "to the Federal Reserve agents".

Subsec. (m). Pub. L. 103–325, §322(d), which directed substitution of "15 percent" for "10 percentum" wherever appearing, was executed by substituting "15 percent" for "10 per centum" in two places to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 103–325, §331(d), added subsec. (p).

1992—Subsecs. (o), (p). Pub. L. 102–550 redesignated subsec. (p) as (o).

1991—Subsec. (n). Pub. L. 102–242, §142(c), which directed addition of subsec. (n) at end of section, was executed by adding subsec. (n) after subsec. (m). See Construction of 1991 Amendment note below.

Subsec. (p). Pub. L. 102–242, §133(f), added subsec. (p).

1989—Subsec. (a)(2)(iii). Pub. L. 101–73 substituted "the Director of the Office of Thrift Supervision in the case of any savings association which is an insured depository institution (as defined in section 1813 of this title)" for "Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation".

1983—Subsec. (m). Pub. L. 97–457 substituted "under section 84(c)(4) of this title" for "under paragraph (8) of section 84 of this title" after "in the case of national banks".

1982—Subsec. (n). Pub. L. 97–258 struck out subsec. (n) which provided that, whenever in the judgment of the Secretary of the Treasury such action was necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, could require any or all individuals, partnerships, associations, and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations, and corporations and that, upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury would pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States.

1980—Subsec. (a). Pub. L. 96–221 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (k). Pub. L. 95–251 substituted "administrative law judges" for "hearing examiners".

1968—Subsec. (c). Pub. L. 90–269 struck out requirements for establishment by the Board of Governors of the Federal Reserve System of a graduated tax on the deficiency in the gold reserve whenever the reserve held against Federal Reserve notes fell below 25 percent and for an automatic increase in the rates of interest or discount fixed by the Board in an amount equal to the graduated tax imposed.

1966—Subsec. (d). Pub. L. 89–427 excepted the cancellation and destruction, and the accounting with respect to the cancellation and destruction, of notes unfit for circulation from the area of responsibility exercised by the Board of Governors of the Federal Reserve System through the Bureau of the Comptroller of the Currency over the issue and retirement of Federal Reserve notes.

Subsec. (k). Pub. L. 89–765 added subsec. (k). A former subsec. (k) was repealed by Pub. L. 87–722, §3, Sept. 28, 1962, 76 Stat. 670.

1962—Subsec. (k). Pub. L. 87–722 repealed subsec. (k) which related to the authority of the Board of Governors of the Federal Reserve System to permit national banks to act as trustees, etc., and is now covered by section 92a of this title.

1959—Subsec. (e). Pub. L. 86–114 substituted "reserve cities" for "reserve and central reserve cities" in two places.

Subsec. (m). Pub. L. 86–251 struck out "in the form of notes" after "represented by obligations" in proviso.

1945—Subsec. (c). Act June 12, 1945, substituted "25 per centum" for "40 per centum", and "20 per centum" for "32½ per centum" wherever appearing.

1935—Subsec. (k). Act Aug. 23, 1935, §342, amended last sentence of third par.

Subsec. (m). Act Aug. 23, 1935, §321(a), inserted proviso at end of first sentence.

1933—Subsec. (m). Act June 16, 1933, amended provisions generally.

Subsec. (n). Act Mar. 9, 1933, added subsec. (n).

1930—Subsec. (k). Act June 26, 1930, added last par.

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.

EFFECTIVE DATE OF 2018 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 115–174 effective 18 months after May 24, 2018, see section 401(d) of Pub. L. 115–174, set out as a note under section 5365 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 318(c) of Pub. L. 111–203 effective on the transfer date, see section 318(e) of Pub. L. 111–203, set out as an Effective Date note under section 16 of this title.

Amendment by section 366(1) of Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

Amendment by sections 1103(b) and 1108(c) of Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

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, except that where amendment is to any provision of law added or amended by Pub. L. 102–242 effective after Dec. 19, 1992, then amendment by Pub. L. 102–550 effective on effective date of amendment by Pub. L. 102–242, see section 1609 of Pub. L. 102–550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 133(f) of Pub. L. 102–242 effective 1 year after Dec. 19, 1991, see section 133(g) of Pub. L. 102–242, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–221, title I, §108, Mar. 31, 1980, 94 Stat. 141, provided that: "This title [enacting section 248a of this title, amending this section and sections 342, 347b, 355, 360, 412, 461, 463, 505, and 1425a of this title, and enacting provisions set out as notes under sections 226 and 355 of this title] shall take effect on the first day of the sixth month which begins after the date of the enactment of this title [Mar. 31, 1980], except that the amendments regarding sections 19(b)(7) and 19(b)(8)(D) of the Federal Reserve Act [section 461(b)(7) and (b)(8)(D) of this title] shall take effect on the date of enactment of this title."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86–114, set out as a Central Reserve and Reserve Cities note under former section 141 of this title.

CONSTRUCTION OF 2018 AMENDMENT

For construction of amendment by Pub. L. 115–174 as applied to certain foreign banking organizations, see section 401(g) of Pub. L. 115–174, set out as a note under section 5365 of this title.

CONSTRUCTION OF 1991 AMENDMENT

Pub. L. 102–550, title XVI, §1603(e)(2), Oct. 28, 1992, 106 Stat. 4081, provided that: "The amendment made by section 142(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 [Pub. L. 102–242] (adding a paragraph at the end of section 11 of the Federal Reserve Act [this section]) shall be considered to have been executed before the amendment made by section 133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1991 [amending this section]."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 6359

Ex. Ord. No. 6359, Oct. 25, 1933, as amended by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, which provided for receipt on consignment of gold by the United States mints and assay offices, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EX. ORD. NO. 10547. INSPECTION OF STATISTICAL TRANSCRIPT CARDS

Ex. Ord. No. 10547, July 27, 1954, 19 F.R. 4661, required statistical transcript cards submitted with, or prepared by the Internal Revenue Service from, corporation income tax returns for the taxable years ending after June 30, 1951, and before July 1, 1952, to be open to inspection by the Board of Governors of the Federal Reserve System as an aid in executing the powers conferred upon such Board by this section, such

inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in T.D. 6081, 19 F.R. 4666.

¹ [See References in Text note below.](#)

² [So in original. Two subsecs. \(s\) have been enacted.](#)

§248–1. Rules and regulations for transfer of funds and charges therefor among banks; clearing houses

The Board of Governors of the Federal Reserve System shall make and promulgate from time to time regulations governing the transfer of funds and charges therefor among Federal reserve banks and their branches, and may at its discretion exercise the functions of a clearing house for such Federal reserve banks, or may designate a Federal reserve bank to exercise such functions, and may also require each such bank to exercise the functions of a clearing house for depository institutions. (Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 268; Aug. 23, 1935, ch. 614, §203(a), 49 Stat. 704; Pub. L. 96–221, title I, §105(d), Mar. 31, 1980, 94 Stat. 140.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the thirteenth par. (formerly the fourteenth par.) of section 16 of act Dec. 23, 1913, which was formerly classified to section 248(o) of this title. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1980—Pub. L. 96–221, which directed amendment of "[t]he fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 248(o))" by substituting "depository institutions" for "its member banks", was executed by making the substitution in this section to reflect the probable intent of Congress.

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96–221, set out as a note under section 248 of this title.

§248a. Pricing of services

(a) Publication of pricing principles and proposed schedule of fees; effective date of schedule of fees

Not later than the first day of the sixth month after March 31, 1980, the Board shall publish for public comment a set of pricing principles in accordance with this section and a proposed schedule of fees based upon those principles for Federal Reserve bank services to depository institutions, and not later than the first day of the eighteenth month after March 31, 1980, the Board shall begin to put into effect a schedule of fees for such services which is based on those principles.

(b) Covered services

The services which shall be covered by the schedule of fees under subsection (a) are—

- (1) currency and coin services;
- (2) check clearing and collection services;
- (3) wire transfer services;
- (4) automated clearinghouse services;
- (5) settlement services;
- (6) securities safekeeping services;
- (7) Federal Reserve float; and
- (8) any new services which the Federal Reserve System offers, including but not limited to payment services to effectuate the electronic transfer of funds.

(c) Criteria applicable

The schedule of fees prescribed pursuant to this section shall be based on the following principles:

- (1) All Federal Reserve bank services covered by the fee schedule shall be priced explicitly.
- (2) All Federal Reserve bank services covered by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.
- (3) Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide.
- (4) Interest on items credited prior to collection shall be charged at the current rate applicable in the market for Federal funds.

(d) Budgetary consequences of decline in volume of services

The Board shall require reductions in the operating budgets of the Federal Reserve banks commensurate with any actual or projected decline in the volume of services to be provided by such banks. The full amount of any savings so realized shall be paid into the United States Treasury.

(e) Parity in clearing

All depository institutions, as defined in section 461(b)(1) of this title, may receive for deposit and as deposits any evidences of transaction accounts, as defined by section 461(b)(1) of this title from other depository institutions, as defined in section 461(b)(1) of this title or from any office of any Federal Reserve bank without regard to any Federal or State law restricting the number or the physical location or locations of such depository institutions.

(Dec. 23, 1913, ch. 6, §11A, as added Pub. L. 96-221, title I, §107, Mar. 31, 1980, 94 Stat. 140; amended Pub. L. 100-86, title VI, §612(a), Aug. 10, 1987, 101 Stat. 652.)

EDITORIAL NOTES

AMENDMENTS

1987—Subsec. (e). Pub. L. 100-86 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-86, title VI, §612(b), Aug. 10, 1987, 101 Stat. 652, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this title [Aug. 10, 1987]."

EFFECTIVE DATE

Section effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96–221, set out as an Effective Date of 1980 Amendment note under section 248 of this title.

§248b. Annual independent audits of Federal reserve banks and Board

The Board shall order an annual independent audit of the financial statements of each Federal reserve bank and the Board.

(Dec. 23, 1913, ch. 6, §11B, as added Pub. L. 106–102, title VII, §726, Nov. 12, 1999, 113 Stat. 1475.)

§248c. Master account and services database

(a) Definitions

In this section:

(1) Access request

The term "access request" means a request to a Federal reserve bank for access to a reserve bank master account and services, including any written documentation or formal indication that an entity intends to seek access to a reserve bank master account and services.

(2) Official accountholder

The term "official accountholder" means—

- (A) a foreign state, as defined in section 632 of this title;
- (B) a central bank, as defined in section 632 of this title, other than a commercial bank;
- (C) a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288 et seq.); and
- (D) any governmental entity for which the Secretary of the Treasury has directed a Federal reserve bank to receive deposits as fiscal agent of the United States under section 391 of this title.

(3) Reserve bank master account and services

The term "reserve bank master account and services" means an account in which a Federal reserve bank—

- (A) receives deposits for an entity other than an official accountholder; or
- (B) provides any service under section 248a(b) of this title to an entity other than an official accountholder.

(b) Publishing master account and access information

(1) Online database

The Board shall create and maintain a public, online, and searchable database that contains—

- (A) a list of every entity that currently has access to a reserve bank master account and services, including the date on which the access was granted to the extent the date is knowable;
- (B) a list of every entity that submits an access request for a reserve bank master account and services after enactment of this section (or that has submitted an access request that is pending on December 23, 2022), including whether, and the dates on which, a request—
 - (i) was submitted; and
 - (ii) was approved, rejected, pending, or withdrawn; and
- (C) for each list described in subparagraph (A) or (B), the type of entity that holds or submitted an access request for a reserve bank master account and services, including whether such entity is—
 - (i) an insured depository institution, as defined in section 1813 of this title;

- (ii) an insured credit union, as defined in section 1752 of this title; or
- (iii) a depository institution that is not an insured depository institution or an insured credit union.

(2) Updates

Not less frequently than once every quarter, the Board shall update the database to add any new information required under paragraph (1).

(3) Deadline

Not later than 180 days after December 23, 2022, the Board shall publish the database with the information required under paragraph (1).

(Dec. 23, 1913, ch. 6, §11C, as added Pub. L. 117–263, div. E, title LVII, §5708, Dec. 23, 2022, 136 Stat. 3419.)

EDITORIAL NOTES

REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (a)(2)(C), is title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to subchapter XVIII (§288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables.

Enactment of this section, referred to in subsec. (b)(1)(B), means the enactment of this section by Pub. L. 117–263, which was approved Dec. 23, 2022.

§249. Repealed. Pub. L. 94–412, title V, §501(c), Sept. 14, 1976, 90 Stat. 1258

Section, act Aug. 8, 1947, ch. 517, 61 Stat. 921, dealt with regulation of consumer credit.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SAVINGS PROVISION

Repeal by Pub. L. 94–412 not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94–412, set out as a note under section 1601 of Title 50, War and National Defense.

§250. Independence of financial regulatory agencies

No officer or agency of the United States shall have any authority to require the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Director of the Federal Housing Finance Agency, or the National Credit Union Administration to submit legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the President.

(Pub. L. 93–495, title I, §111, Oct. 28, 1974, 88 Stat. 1506; Pub. L. 103–325, title III, §331(a), Sept. 23, 1994, 108 Stat. 2232; Pub. L. 106–102, title VI, §606(e)(2), Nov. 12, 1999, 113 Stat. 1455; Pub. L. 110–289, div. A, title I, §1102(b), July 30, 2008, 122 Stat. 2664.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Federal Reserve Act which comprises this chapter.

AMENDMENTS

2008—Pub. L. 110–289 substituted "the Director of the Federal Housing Finance Agency" for "the Federal Housing Finance Board".

1999—Pub. L. 106–102 substituted "Director of the Office of Thrift Supervision, the Federal Housing Finance Board," for "Federal Home Loan Bank Board,".

1994—Pub. L. 103–325 inserted "the Comptroller of the Currency," after "Federal Deposit Insurance Corporation,".

§251. Repealed. Pub. L. 104–208, div. A, title II, §2224(a), Sept. 30, 1996, 110 Stat. 3009–415

Section, Pub. L. 102–242, title IV, §477, Dec. 19, 1991, 105 Stat. 2387; Pub. L. 102–550, title XVI, §1606(i)(3), Oct. 28, 1992, 106 Stat. 4089, required Board of Governors of Federal Reserve System to collect and publish information on availability of credit to small businesses.

§252. Credit availability assessment

(a) Study

(1) In general

Not later than 12 months after September 30, 1996, and once every 60 months thereafter, the Board, in consultation with the Director of the Office of Thrift Supervision, the Comptroller of the Currency, the Board of Directors of the Corporation, the Administrator of the National Credit Union Administration, the Administrator of the Small Business Administration, and the Secretary of Commerce, shall conduct a study and submit a report to the Congress detailing the extent of small business lending by all creditors.

(2) Contents of study

The study required under paragraph (1) shall identify, to the extent practicable, those factors which provide policymakers with insights into the small business credit market, including—

(A) the demand for small business credit, including consideration of the impact of economic cycles on the levels of such demand;

(B) the availability of credit to small businesses;

(C) the range of credit options available to small businesses, such as those available from insured depository institutions and other providers of credit;

(D) the types of credit products used to finance small business operations, including the use of traditional loans, leases, lines of credit, home equity loans, credit cards, and other sources of financing;

(E) the credit needs of small businesses, including, if appropriate, the extent to which such needs differ, based upon product type, size of business, cash flow requirements, characteristics of ownership or investors, or other aspects of such business;

(F) the types of risks to creditors in providing credit to small businesses; and

(G) such other factors as the Board deems appropriate.

(b) Use of existing data

The studies required by this section shall not increase the regulatory or paperwork burden on regulated financial institutions, other sources of small business credit, or small businesses.

(Pub. L. 104–208, div. A, title II, §2227, Sept. 30, 1996, 110 Stat. 3009–417.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Federal Reserve Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions vested in Administrator of National Credit Union Administration transferred and vested in National Credit Union Administration Board pursuant to section 1752a of this title.

STUDY OF FINANCIAL MODERNIZATION'S EFFECT ON THE ACCESSIBILITY OF SMALL BUSINESS AND FARM LOANS

Pub. L. 106–102, title I, §109, Nov. 12, 1999, 113 Stat. 1362, provided that:

"(a) **STUDY.**—The Secretary of the Treasury, in consultation with the Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act [12 U.S.C. 1813(z)]), shall conduct a study of the extent to which credit is being provided to and for small businesses and farms, as a result of this Act [see Tables for classification] and the amendments made by this Act.

"(b) **REPORT.**—Before the end of the 5-year period beginning on the date of the enactment of this Act [Nov. 12, 1999], the Secretary, in consultation with the Federal banking agencies, shall submit a report to the Congress on the study conducted pursuant to subsection (a) and shall include such recommendations as the Secretary determines to be appropriate for administrative and legislative action."

DEFINITIONS

Pub. L. 104–208, div. A, title II, §2001(c), Sept. 30, 1996, 110 Stat. 3009–397, provided that: "Except as otherwise specified in this title [see Tables for classification], the following definitions shall apply for purposes of this title:

"(1) **APPRAISAL SUBCOMMITTEE.**—The term 'Appraisal Subcommittee' means the Appraisal Subcommittee established under section 1011 of the Federal Financial Institutions Examination Council Act of 1978 [12 U.S.C. 3310] (as in existence on the day before the date of enactment of this Act [Sept. 30, 1996]).

"(2) **APPROPRIATE FEDERAL BANKING AGENCY.**—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

"(3) **BOARD.**—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(4) **CORPORATION.**—The term 'Corporation' means the Federal Deposit Insurance Corporation.

"(5) **COUNCIL.**—The term 'Council' means the Financial Institutions Examination Council established under section 1004 of the Federal Financial Institutions Examination Council Act of 1978 [12 U.S.C. 3303].

"(6) **INSURED CREDIT UNION.**—The term 'insured credit union' has the same meaning as in section 101 of the Federal Credit Union Act [12 U.S.C. 1752].

"(7) **INSURED DEPOSITORY INSTITUTION.**—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act."

§253. Open data publication by the Board of Governors

All public data assets published by the Board of Governors under this chapter, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), the Financial Stability Act of 2010 (12 U.S.C. 5311 et seq.), the Home Owners' Loan Act (12 U.S.C. 1461 et seq.), the Payment, Clearing, and Settlement Supervision Act of 2010 (12 U.S.C. 5461 et seq.), or the Enhancing Financial Institution Safety and Soundness Act of 2010 (title III of Public Law 111–203) (or any provision of law amended by that Act) 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.

(Dec. 23, 1913, ch. 6, §32, as added Pub. L. 117–263, div. E, title LVIII, §5862, Dec. 23, 2022, 136 Stat. 3435.)

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.

The Bank Holding Company Act of 1956, referred to in text, is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

The Financial Stability Act of 2010, referred to in text, is title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1391, which is classified principally to subchapter I (§5311 et seq.) of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Home Owners' Loan Act, referred to in text, is act June 13, 1933, ch. 64, 48 Stat. 128, which is classified generally to chapter 12 (§1461 et seq.) of this title. For complete classification of this Act to the Code, see section 1461 of this title and Tables.

The Payment, Clearing, and Settlement Supervision Act of 2010, referred to in text, is title VIII of Pub. L. 111–203, July 21, 2010, 124 Stat. 1802, which is classified generally to subchapter IV (§5461 et seq.) of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Enhancing Financial Institution Safety and Soundness Act of 2010, referred to in text, is title III of Pub. L. 111–203, July 21, 2010, 124 Stat. 1520. 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

RULEMAKING

Pub. L. 117–263, div. E, title LVIII, §5863, Dec. 23, 2022, 136 Stat. 3435, provided that:

"(a) **IN GENERAL.**—The Board of Governors of the Federal Reserve System shall issue rules to carry out the amendments made by this subtitle [subtitle F (§§5861–5864) of title LVIII of div. E of Pub. L. 117–263, enacting this section and amending sections 1467a, 1844, 5361, and 5468 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 Board of Governors of the Federal Reserve System—

"(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, §5864, Dec. 23, 2022, 136 Stat. 3436, provided that: "Nothing in this subtitle [subtitle F (§§5861–5864) of title LVIII of div. E of Pub. L. 117–263, enacting this section, amending sections 1467a, 1844, 5361, and 5468 of this title, and enacting provisions set out as notes under this section], or the amendments made by this subtitle, shall be construed to require the Board of Governors of the Federal Reserve System to collect or make publicly available additional information under any Act amended by this subtitle, any Act referenced in an amendment made by this subtitle, or any Act amended by an Act referenced in an amendment made by this subtitle, beyond information that was collected or made publicly available under any such provision of law, as of the day before the date of enactment of this Act [Dec. 23, 2022]."

SUBCHAPTER III—FEDERAL ADVISORY COUNCIL

§261. Creation; membership; compensation; meetings; officers; procedure; quorum; vacancies

There is created a Federal Advisory Council, which shall consist of as many members as there are Federal reserve districts. Each Federal reserve bank by its board of directors shall annually select from its own Federal reserve district one member of said council, who shall receive such compensation and allowances as may be fixed by his board of directors subject to the approval of the Board of Governors of the Federal Reserve System. The meetings of said advisory council shall be held at Washington, District of Columbia, at least four times each year, and oftener if called by the Board of Governors of the Federal Reserve System. The council may in addition to the meetings above provided for hold such other meetings in Washington, District of Columbia, or elsewhere, as it may deem necessary, may select its own officers and adopt its own methods of procedure, and a majority of its members shall constitute a quorum for the transaction of business. Vacancies in the council shall be filled by the respective reserve banks, and members selected to fill vacancies shall serve for the unexpired term.

(Dec. 23, 1913, ch. 6, §12 (par.), 38 Stat. 263; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of first par. of section 12 of act Dec. 23, 1913. Second par. of section 12 is classified to section 262 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.

§262. Powers

The Federal Advisory Council shall have power, by itself or through its officers, (1) to confer directly with the Board of Governors of the Federal Reserve System on general business conditions; (2) to make oral or written representations concerning matters within the jurisdiction of said board; (3) to call for information and to make recommendations in regard to discount rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold or securities by reserve banks, open-market operations by said banks, and the general affairs of the reserve banking system.

(Dec. 23, 1913, ch. 6, §12 (par.), 38 Stat. 263; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of second par. of section 12 of act Dec. 23, 1913. First par. of section 12 is classified to section 261 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.

SUBCHAPTER IV—FEDERAL OPEN MARKET COMMITTEE

§263. Federal Open Market Committee; creation; membership; regulations governing open-market transactions

(a) There is hereby created a Federal Open Market Committee (hereinafter referred to as the "Committee"), which shall consist of the members of the Board of Governors of the Federal Reserve System and five representatives of the Federal Reserve banks to be selected as hereinafter provided. Such representatives shall be presidents or first vice presidents of Federal Reserve banks and, beginning with the election for the term commencing March 1, 1943, shall be elected annually as follows: One by the board of directors of the Federal Reserve Bank of New York, one by the boards of directors of the Federal Reserve Banks of Boston, Philadelphia, and Richmond, one by the boards of directors of the Federal Reserve Banks of Cleveland and Chicago, one by the boards of directors of the Federal Reserve Banks of Atlanta, Dallas, and St. Louis, and one by the boards of directors of the Federal Reserve Banks of Minneapolis, Kansas City, and San Francisco. In such elections each board of directors shall have one vote; and the details of such elections may be governed by regulations prescribed by the committee, which may be amended from time to time. An alternate to serve in the absence of each such representative shall likewise be a president or first vice president of a Federal Reserve bank and shall be elected annually in the same manner. The meetings of said Committee shall be held at Washington, District of Columbia, at least four times each year upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any three members of the Committee.

(b) No Federal Reserve bank shall engage or decline to engage in open-market operations under sections 348a and 353 to 359 of this title except in accordance with the direction of and regulations adopted by the Committee. The Committee shall consider, adopt, and transmit to the several Federal Reserve banks, regulations relating to the open-market transactions of such banks.

(c) The time, character, and volume of all purchases and sales of paper described in sections 348a and 353 to 359 of this title as eligible for open-market operations shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.

(Dec. 23, 1913, ch. 6, §12A, as added June 16, 1933, ch. 89, §8, 48 Stat. 168; amended Aug. 23, 1935, ch. 614, title II, §205, 49 Stat. 705; July 7, 1942, ch. 488, §1, 56 Stat. 647.)

EDITORIAL NOTES

AMENDMENTS

1942—Subsec. (a). Act July 7, 1942, substituted second, third, and fourth sentences for former second and third sentences.

1935—Act Aug. 23, 1935, amended provisions relating to membership in subsec. (a), substituted "Committee" for "Federal Reserve Board" and "Board" in subsec. (b), and omitted subsec. (d).

SUBCHAPTER V—FEDERAL DEPOSIT INSURANCE CORPORATION

§264. Transferred

EDITORIAL NOTES

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, §12B, as added June 16, 1933, ch. 89, §8, 48 Stat. 168; amended June 16, 1934, ch. 546, §1 (1)–(10), 48 Stat. 969, 970; June 28, 1935, ch. 335, 49 Stat. 435; Aug. 23, 1935, ch. 614, title I, §101, 49 Stat. 684; Apr. 21, 1936, ch. 244, 49 Stat. 1237; May 25, 1938, ch. 276, 52 Stat. 442; June 16,

1938, ch. 489, 52 Stat. 767; June 20, 1939, ch. 214, §2, 53 Stat. 842; Apr. 13, 1943, ch. 62, §1, 57 Stat. 65; Aug. 5, 1947, ch. 492, §§2, 4, 61 Stat. 773; June 25, 1948, ch. 645, §21, 62 Stat. 862; Oct. 15, 1949, ch. 695, §4, 63 Stat. 880; Aug. 17, 1950, ch. 729, §§5–7, 64 Stat. 457, relating to the Federal Deposit Insurance Corporation, was withdrawn from the Federal Reserve Act and made a separate act to be known as the Federal Deposit Insurance Act, by section 1 of act Sept. 21, 1950, ch. 967, 64 Stat. 873. The Federal Deposit Insurance Act is classified to chapter 16 (§1811 et seq.) of this title.

§265. Insured banks as depositaries of public money; duties; security; discrimination between banks prohibited; repeal of inconsistent laws

All insured banks designated for that purpose by the Secretary of the Treasury shall be depositaries of public money of the United States (including, without being limited to, revenues and funds of the United States, and any funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees, and Postal Savings funds), and the Secretary is authorized to deposit public money in such depositaries, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government as may be required of them. The Secretary of the Treasury shall require of the insured banks thus designated satisfactory security by the deposit of United States bonds or otherwise, for the safekeeping and prompt payment of public money deposited with them and for the faithful performance of their duties as financial agents of the Government: *Provided*, That no such security shall be required for the safekeeping and prompt payment of such parts of the deposits of the public money in such banks as are insured deposits and each officer, employee, or agent of the United States having official custody of public funds and lawfully depositing the same in an insured bank shall, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity. Notwithstanding any other provision of law, no department, board, agency, instrumentality, officer, employee, or agent of the United States shall issue or permit to continue in effect any regulations, rulings, or instructions or enter into or approve any contracts or perform any other acts having to do with the deposit, disbursement, or expenditure of public funds, or the deposit, custody, or advance of funds subject to the control of the United States as trustee or otherwise which shall discriminate against or prefer national banking associations, State banks members of the Federal Reserve System, or insured banks not members of the Federal Reserve System, by class, or which shall require those enjoying the benefits, directly or indirectly, of disbursed public funds so to discriminate. All Acts or parts thereof in conflict herewith are repealed. The terms "insured bank" and "insured deposit" as used in this section shall be construed according to the definitions of such terms in section 1813 of this title.

(June 11, 1942, ch. 404, §10, 56 Stat. 356; Sept. 3, 1954, ch. 1263, §26, 68 Stat. 1235.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 1110 of the former Appendix to Title 50, War and National Defense.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "section 1813" for "section 264" in last sentence.

§266. State-chartered banks and other institutions as depositaries of public money; fiscal agents; duties

Banks, savings banks, and savings and loan, building and loan, homestead associations (including cooperative banks), and credit unions created under the laws of any State and the deposits or accounts of which are insured by a State or agency thereof or corporation chartered pursuant to the laws of any State may be depositaries of public money and may be employed as fiscal agents of the United States. The Secretary of the Treasury is authorized to deposit public money in any such institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositaries of public money and fiscal agents of the United States. Each such institution shall perform all such reasonable duties as depositary of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

(Pub. L. 95-147, §2(d), Oct. 28, 1977, 91 Stat. 1228.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Federal Reserve Act, which comprises this chapter.

SUBCHAPTER VI—CAPITAL AND STOCK OF FEDERAL RESERVE BANKS; DIVIDENDS AND EARNINGS

§281. Capital

No Federal reserve bank shall commence business with a subscribed capital less than \$4,000,000.
(Dec. 23, 1913, ch. 6, §2 (part), 38 Stat. 253.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of part of the thirteenth par. of section 2 of act Dec. 23, 1913. Some of the other provisions of the thirteenth par. are classified to section 224 of this title, and some were not included in the Code. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 of this title.

§282. Subscription to capital stock by national banking association

Every national banking association within each Federal reserve district shall be required to subscribe to the capital stock of the Federal reserve bank for that district in a sum equal to six per centum of the paid-up capital stock and surplus of such bank, one-sixth of the subscription to be payable on call of the Board of Governors of the Federal Reserve System, one-sixth within three months and one-sixth within six months thereafter, and the remainder of the subscription, or any part thereof, shall be subject to call when deemed necessary by the Board, said payments to be in gold or gold certificates.

(Dec. 23, 1913, ch. 6, §2 (part), 38 Stat. 252; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is based on part of the third par. of section 2 of act Dec. 23, 1913. The rest of the third par. was not included in the Code. For classification of other pars. of section 2 of this Act, see Codification note set out

under section 222 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.

§283. Public subscription to capital stock

No individual, copartnership, or corporation other than a member bank of its district shall be permitted to subscribe for or to hold at any time more than \$25,000 par value of stock in any Federal reserve bank. Such stock shall be known as public stock and may be transferred on the books of the Federal reserve bank by the chairman of the board of directors of such bank.

(Dec. 23, 1913, ch. 6, §2 (par.), 38 Stat. 253.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the ninth par. of section 2 of act Dec. 23, 1913. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 of this title.

§284. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, §2 (part), 38 Stat. 253, was omitted as obsolete pursuant to a communication from the Board of Governors of the Federal Reserve System dated Mar. 7, 1941, which stated "As originally enacted the Federal Reserve Act provided for a Reserve Bank Organization Committee to have charge of the initial steps in organizing the Federal Reserve System and this Committee was authorized to allot Federal Reserve Bank stock to the United States in the event that subscriptions to such stock by banks and by the public were inadequate. However, subscriptions by member banks were adequate and there was no necessity or authority for the allocation of any stock to the United States. Accordingly, [this section] is now of no practical effect, and may be regarded as obsolete."

This section was based on part of the tenth par. of section 2 of act Dec. 23, 1913. The rest of the tenth par. was not included in the Code. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 of this title.

§285. Nonvoting stock

Stock not held by member banks shall not be entitled to voting power.

(Dec. 23, 1913, ch. 6, §2 (par.), 38 Stat. 253.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the eleventh par. of section 2 of act Dec. 23, 1913. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 of this title.

§286. Transfers of stock; rules and regulations

The Board of Governors of the Federal Reserve System is empowered to adopt and promulgate rules and regulations governing the transfers of said stock.

(Dec. 23, 1913, ch. 6, §2 (par.), 38 Stat. 253; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is based on the twelfth par. of section 2 of act Dec. 23, 1913. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 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.

§287. Value of shares of stock; increase and decrease of stock; member banks as shareholders; surrender of shares

The capital stock of each Federal reserve bank shall be divided into shares of \$100 each. The outstanding capital stock shall be increased from time to time as member banks increase their capital stock and surplus or as additional banks become members, and may be decreased as member banks reduce their capital stock or surplus or cease to be members. Shares of the capital stock of Federal reserve banks owned by member banks shall not be transferred or hypothecated. When a member bank increases its capital stock or surplus, it shall thereupon subscribe for an additional amount of capital stock of the Federal reserve bank of its district equal to 6 per centum of the said increase, one-half of said subscription to be paid in the manner hereinbefore provided for original subscription, and one-half subject to call of the Board of Governors of the Federal Reserve System. A bank applying for stock in a Federal reserve bank at any time after the organization thereof must subscribe for an amount of the capital stock of the Federal reserve bank equal to 6 per centum of the paid-up capital stock and surplus of said applicant bank, paying therefor its par value plus one-half of 1 per centum a month from the period of the last dividend. When a member bank reduces its capital stock or surplus it shall surrender a proportionate amount of its holdings in the capital stock of said Federal Reserve bank. Any member bank which holds capital stock of a Federal Reserve bank in excess of the amount required on the basis of 6 per centum of its paid-up capital stock and surplus shall surrender such excess stock. When a member bank voluntarily liquidates it shall surrender all of its holdings of the capital stock of said Federal Reserve bank and be released from its stock subscription not previously called. In any such case the shares surrendered shall be canceled and the member bank shall receive in payment therefor, under regulations to be prescribed by the Board of Governors of the Federal Reserve System, a sum equal to its cash-paid subscriptions on the shares surrendered and one-half of 1 per centum a month from the period of the last dividend not to exceed the book value thereof, less any liability of such member bank to the Federal Reserve bank.

(Dec. 23, 1913, ch. 6, §5, 38 Stat. 257; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §319(a), 49 Stat. 704, 713.)

EDITORIAL NOTES

AMENDMENTS

1935—Act Aug. 23, 1935, §319(a), amended last four sentences.

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.

§288. Cancellation of stock held by member bank on insolvency or discontinuance of banking operations for sixty days; repayment of cash-paid subscriptions

If any member bank shall be declared insolvent and a receiver appointed therefor, the stock held by it in said Federal reserve bank shall be canceled, without impairment of its liability, and all cash-paid subscriptions on said stock, with one-half of 1 per centum per month from the period of last dividend, if earned, not to exceed the book value thereof, shall be first applied to all debts of the insolvent member bank to the Federal reserve bank, and the balance, if any, shall be paid to the receiver of the insolvent bank.

If any national bank which has not gone into liquidation as provided in section 181 of this title, and for which a receiver has not already been appointed for other lawful cause, shall discontinue its banking operations for a period of sixty days the Comptroller of the Currency may, if he deems it advisable, appoint a receiver for such bank. The stock held by the said national bank in the Federal reserve bank of its district shall thereupon be canceled and said national bank shall receive in payment therefor, under regulations to be prescribed by the Board of Governors of the Federal Reserve System, a sum equal to its cash-paid subscriptions on the shares canceled and one-half of 1 per centum a month from the period of the last dividend, if earned, not to exceed the book value thereof, less any liability of such national bank to the Federal reserve bank.

(Dec. 23, 1913, ch. 6, §6, 38 Stat. 258; Apr. 23, 1930, ch. 207, §1, 46 Stat. 250; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §319(b), 49 Stat. 704, 713.)

EDITORIAL NOTES

AMENDMENTS

1935—Act Aug. 23, 1935, §319(b), struck out provision requiring execution of certificate of reduction of capital stock.

1930—Act Apr. 23, 1930, among other changes, added second par.

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.

§289. Dividends and surplus funds of reserve banks; transfer for fiscal year 2000

(a) Dividends and surplus funds of reserve banks

(1) Stockholder dividends

(A) Dividend amount

After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend on paid-in capital stock of—

(i) in the case of a stockholder with total consolidated assets of more than \$10,000,000,000, the smaller of—

(I) the rate equal to the high yield of the 10-year Treasury note auctioned at the last auction held prior to the payment of such dividend; and

(II) 6 percent; and

(ii) in the case of a stockholder with total consolidated assets of \$10,000,000,000 or less, 6 percent.

(B) Dividend cumulative

The entitlement to dividends under subparagraph (A) shall be cumulative.

(C) Inflation adjustment

The Board of Governors of the Federal Reserve System shall annually adjust the dollar amounts of total consolidated assets specified under subparagraph (A) to reflect the change in the Gross Domestic Product Price Index, published by the Bureau of Economic Analysis.

(2) Deposit of net earnings in surplus fund

That portion of net earnings of each Federal reserve bank which remains after dividend claims under paragraph (1)(A) have been fully met shall be deposited in the surplus fund of the bank.

(3) Limitation on surplus funds

(A) In general

The aggregate amount of the surplus funds of the Federal reserve banks may not exceed \$6,825,000,000.

(B) Transfer to the general fund

Any amounts of the surplus funds of the Federal reserve banks that exceed, or would exceed, the limitation under subparagraph (A) shall be transferred to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury.

(b) ¹ Transfer for fiscal year 2000

(1) In general

The Federal reserve banks shall transfer from the surplus funds of such banks to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, a total amount of \$3,752,000,000 in fiscal year 2000.

(2) Allocated by Fed

Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 2000, the Board shall determine the amount each such bank shall pay in such fiscal year.

(3) Replenishment of surplus fund prohibited

During fiscal year 2000, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1).

(Dec. 23, 1913, ch. 6, §7(a), (b), 38 Stat. 258; Mar. 3, 1919, ch. 101, §1, 40 Stat. 1314; June 16, 1933, ch. 89, §4, 48 Stat. 163; Pub. L. 103–66, title III, §3002(a), Aug. 10, 1993, 107 Stat. 337; Pub. L. 103–325, title VI, §602(d), Sept. 23, 1994, 108 Stat. 2291; Pub. L. 106–113, div. B, §1000(a)(5)

[title III, §302], Nov. 29, 1999, 113 Stat. 1536, 1501A–304; Pub. L. 114–94, div. C, title XXXII, §§32202, 32203(a), Dec. 4, 2015, 129 Stat. 1739; Pub. L. 115–123, div. C, title II, §30205, Feb. 9, 2018, 132 Stat. 127; Pub. L. 115–174, title II, §217, May 24, 2018, 132 Stat. 1326.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of subsec. (a) [formerly first undesignated par.] of section 7 of act Dec. 23, 1913, and subsec. (b) [enacted by Pub. L. 106–113, div. B, §1000(a)(5) [title III, §302(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A–304] of section 7. Another subsec. (b) of section 7 is classified to section 290 of this title. Subsec. (c) of section 7 is classified to section 531 of this title.

AMENDMENTS

2018—Subsec. (a)(3)(A). Pub. L. 115–174 substituted "\$6,825,000,000" for "\$7,500,000,000".

Pub. L. 115–123 substituted "\$7,500,000,000" for "\$10,000,000,000".

2015—Subsec. (a)(1)(A). Pub. L. 114–94, §32203(a)(1), amended subpar. (A) generally. Prior to amendment, text read as follows: "After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend of 6 percent on paid-in capital stock."

Subsec. (a)(1)(C). Pub. L. 114–94, §32203(a)(2), added subpar. (C).

Subsec. (a)(3). Pub. L. 114–94, §32202, added par. (3).

1999—Subsec. (a)(3). Pub. L. 106–113, §1000(a)(5) [title III, §302(1)], struck out heading and text of par. (3). Text read as follows: "During fiscal years 1997 and 1998, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the total paid-in capital and surplus of the member banks of such bank shall be transferred to the Board for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury."

Subsec. (b). Pub. L. 106–113, §1000(a)(5) [title III, §302(2)], added subsec. (b).

1994—Par. (1)(B). Pub. L. 103–325, §602(d)(1), inserted "(A)" after "subparagraph".

Par. (2). Pub. L. 103–325, §602(d)(2), substituted "paragraph (1)(A)" for "subparagraph (A)".

1993—Pub. L. 103–66 inserted section catchline and amended section generally. Prior to amendment, section read as follows: "After all necessary expenses of a Federal reserve bank shall have been paid or provided for, the stockholders shall be entitled to receive an annual dividend of 6 per centum on the paid-in capital stock, which dividend shall be cumulative. After the aforesaid dividend claims have been fully met, the net earnings shall be paid into the surplus fund of the Federal reserve bank."

1933—Act June 16, 1933, provided that net earnings shall be paid into surplus instead of to the United States as a franchise tax.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. C, title XXXII, §32203(b), Dec. 4, 2015, 129 Stat. 1740, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 2016."

EFFECTIVE DATE OF 1933 AMENDMENT

Act June 16, 1933, ch. 89, §4, 48 Stat. 163, provided that the amendment made by that section is effective July 1, 1932.

DISCRETIONARY SURPLUS FUNDS

Pub. L. 116–283, div. F, title LXV, §6510, Jan. 1, 2021, 134 Stat. 4633, provided that: "The dollar amount specified under section 7(a)(3)(A) of the Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) is reduced by \$40,000,000."

ADDITIONAL TRANSFERS FOR FISCAL YEARS 1997 AND 1998

Pub. L. 103–66, title III, §3002(b), Aug. 10, 1993, 107 Stat. 337, provided that in addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to former section

289(a)(3) of this title, the Federal reserve banks should transfer \$106,000,000 in fiscal year 1997 and \$107,000,000 in fiscal year 1998 from their surplus funds to the Treasury for deposit in the general fund, and prohibited the banks from replenishing their surplus funds by the amount of such transfer.

¹ [See Codification note below.](#)

§290. Use of earnings transferred to the Treasury

The net earnings derived by the United States from Federal reserve banks shall, in the discretion of the Secretary, be used to supplement the gold reserve held against outstanding United States notes, or shall be applied to the reduction of the outstanding bonded indebtedness of the United States under regulations to be prescribed by the Secretary of the Treasury. Should a Federal reserve bank be dissolved or go into liquidation, any surplus remaining, after the payment of all debts, dividend requirements as hereinbefore provided, and the par value of the stock, shall be paid to and become the property of the United States and shall be similarly applied.

(Dec. 23, 1913, ch. 6, §7(b), 38 Stat. 258; Pub. L. 103–66, title III, §3002(c)(1), Aug. 10, 1993, 107 Stat. 337.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of subsec. (b) [formerly second undesignated par.] of section 7 of act Dec. 23, 1913. Subsec. (a) and another subsec. (b) [enacted by Pub. L. 106–113, div. B, §1000(a)(5) [title III, §302(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A–304] of section 7 are classified to section 289 of this title. Subsec. (c) of section 7 is classified to section 531 of this title.

AMENDMENTS

1993—Pub. L. 103–66 inserted section catchline.

SUBCHAPTER VII—DIRECTORS OF FEDERAL RESERVE BANKS; RESERVE AGENTS AND ASSISTANTS

§301. Powers and duties of board of directors; suspension of member bank for undue use of bank credit

Every Federal reserve bank shall be conducted under the supervision and control of a board of directors.

The board of directors shall perform the duties usually appertaining to the office of directors of banking associations and all such duties as are prescribed by law.

Said board of directors shall administer the affairs of said bank fairly and impartially and without discrimination in favor of or against any member bank or banks and may, subject to the provisions of law and the orders of the Board of Governors of the Federal Reserve System, extend to each member bank such discounts, advancements, and accommodations as may be safely and reasonably made with due regard for the claims and demands of other member banks, the maintenance of sound credit conditions, and the accommodation of commerce, industry, and agriculture. The Board of Governors of the Federal Reserve System may prescribe regulations further defining within the limitations of this chapter the conditions under which discounts, advancements, and the accommodations may be extended to member banks. Each Federal reserve bank shall keep itself informed of the general character and amount of the loans and investments of its member banks with a view to ascertaining whether undue use is being made of bank credit for the speculative carrying of or trading in

securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions; and, in determining whether to grant or refuse advances, rediscounts, or other credit accommodations, the Federal reserve bank shall give consideration to such information. The chairman of the Federal reserve bank shall report to the Board of Governors of the Federal Reserve System any such undue use of bank credit by any member bank, together with his recommendation. Whenever, in the judgment of the Board of Governors of the Federal Reserve System, any member bank is making such undue use of bank credit, the Board may, in its discretion, after reasonable notice and an opportunity for a hearing, suspend such bank from the use of the credit facilities of the Federal Reserve System and may terminate such suspension or may renew it from time to time.

(Dec. 23, 1913, ch. 6, §4 (pars.), 38 Stat. 255; June 16, 1933, ch. 89, §3(a), 48 Stat. 163; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

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 pars. 6 to 8 of section 4 of act Dec. 23, 1913.

Pars. 1 to 3 and 25 of section 4 were omitted from the code as executed.

Pars. 4 and 5, 9 to 12, 13 to 15, 16 to 21, 22, 24, and 26 of section 4, and par. 23 of section 4 as added June 21, 1917, ch. 32, §2, 40, Stat. 232, are classified to sections 341, 302, 303, 304, 305, 307, 308, and 306, respectively, of this title.

AMENDMENTS

1933—Act June 16, 1933, among other changes, added all after first sentence in third par.

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.

§302. Number of members; classes

Such board of directors shall be selected as hereinafter specified and shall consist of nine members, holding office for three years, and divided into three classes, designated as classes A, B, and C.

Class A shall consist of three members, without discrimination on the basis of race, creed, color, sex, or national origin, who shall be chosen by and be representative of the stockholding banks.

Class B shall consist of three members, who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

Class C shall consist of three members who shall be designated by the Board of Governors of the Federal Reserve System. They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

(Dec. 23, 1913, ch. 6, §4 (pars.), 38 Stat. 255; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 95–188, title II, §202, Nov. 16, 1977, 91 Stat. 1387.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of pars. 9 to 12 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

Provisions of section which related to appointment of Class C directors when the necessary subscriptions to the capital stock have been obtained for the organization of any Federal Reserve Bank and which required the organization committee to exercise the powers and duties appertaining to the office of chairman in the organization of such Federal Reserve Bank pending the designation of a chairman, were omitted as obsolete.

Another section 202 of Pub. L. 95-188 enacted section 225a of this title.

AMENDMENTS

1977—Second par. Pub. L. 95-188, §202(a), required Class A members to be chosen without discrimination on the basis of race, creed, color, sex or national origin.

Third par. Pub. L. 95-188, §202(b), substituted requirement that Class B members represent the public and be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers for prior requirement that such Class B members, at the time of their election, be actively engaged in their district in commerce, agriculture or some other industrial pursuit.

Fourth par. Pub. L. 95-188, §202(c), required Class C members to be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

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.

§303. Qualifications and disabilities

No Senator or Representative in Congress shall be a member of the Board of Governors of the Federal Reserve System or an officer or a director of a Federal reserve bank.

No director of class B shall be an officer, director, or employee of any bank.

No director of class C shall be an officer, director, employee, or stockholder of any bank.

(Dec. 23, 1913, ch. 6, §4 (pars.), 38 Stat. 255; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of pars. 13 to 15 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 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.

§304. Class A and class B directors; selection

Directors of class A and class B shall be chosen in the following manner: The Board of Governors

of the Federal Reserve System shall classify the member banks of the district into three general groups or divisions designating each group by number. Each group shall consist as nearly as may be of banks of similar capitalization. Each member bank shall be permitted to nominate to the chairman of the board of directors of the Federal reserve bank of the district one candidate for director of class A and one candidate for director of class B. The candidates so nominated shall be listed by the chairman, indicating by whom nominated, and a copy of said list shall, within fifteen days after its completion, be furnished by the chairman to each member bank. Each member bank by a resolution of the board or by an amendment to its bylaws shall authorize its president, cashier, or some other officer to cast the vote of the member bank in the elections of class A and class B directors: *Provided*, That whenever any member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], participation in any such nomination or election by such member banks, including such bank holding company if it is also a member bank, shall be confined to one of such banks, which may be designated for the purpose by such holding company.

Within fifteen days after receipt of the list of candidates the duly authorized officer of a member bank shall certify to the chairman his first, second, and other choices for director of class A and class B, respectively, upon a preferential ballot upon a form furnished by the chairman of the board of directors of the Federal reserve bank of the district. Each such officer shall make a cross opposite the name of the first, second, and other choices for a director of class A and for a director of class B, but shall not vote more than one choice for any one candidate. No officer or director of a member bank shall be eligible to serve as a class A director unless nominated and elected by banks which are members of the same group as the member bank of which he is an officer or director.

Any person who is an officer or director of more than one member bank shall not be eligible for nomination as a class A director except by banks in the same group as the bank having the largest aggregate resources of any of those of which such person is an officer or director.

Any candidate having a majority of all votes cast in the column of first choice shall be declared elected. If no candidate have a majority of all the votes in the first column, then there shall be added together the votes cast by the electors for such candidates in the second column and the votes cast for the several candidates in the first column. The candidate then having a majority of the electors voting and the highest number of combined votes shall be declared elected. If no candidate have a majority of electors voting and the highest number of votes when the first and second choices shall have been added, then the votes cast in the third column for other choices shall be added together in like manner, and the candidate then having the highest number of votes shall be declared elected. An immediate report of election shall be declared.

(Dec. 23, 1913, ch. 6, §4 (pars.), 38 Stat. 256; Sept. 26, 1918, ch. 177, §1, 40 Stat. 968; June 26, 1930, ch. 614, 46 Stat. 815; June 16, 1933, ch. 89, §3(b), 48 Stat. 163; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 89-485, §13(e), July 1, 1966, 80 Stat. 243.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Bank Holding Company Act of 1956, referred to in text, is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

CODIFICATION

Section is comprised of pars. 16 to 21 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

AMENDMENTS

1966—Pub. L. 89-485 substituted proviso restricting participation in nomination or election of directors by member banks to one member bank whenever any member banks within the same Federal reserve district are subsidiaries of the same bank holding company, such member bank to be designated for the purpose by the holding company for former proviso restricting the selection of directors by member banks to one member

bank when two or more member banks within the same Federal reserve district are affiliated with the same holding company affiliate, such member bank to be designated for such purpose by the holding company affiliate.

1933—Act June 16, 1933, inserted proviso at end of second par.

1930—Act June 26, 1930, amended last par.

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.

§305. Class C directors; selection; "Federal reserve agent"

Class C directors shall be appointed by the Board of Governors of the Federal Reserve System. They shall have been for at least two years residents of the district for which they are appointed, one of whom shall be designated by said board as chairman of the board of directors of the Federal reserve bank and as "Federal reserve agent." He shall be a person of tested banking experience and in addition to his duties as chairman of the board of directors of the Federal reserve bank he shall be required to maintain, under regulations to be established by the Board of Governors of the Federal Reserve System, a local office of said board on the premises of the Federal reserve bank. He shall make regular reports to the Board of Governors of the Federal Reserve System and shall act as its official representative for the performance of the functions conferred upon it by this chapter. He shall receive an annual compensation to be fixed by the Board of Governors of the Federal Reserve System and paid monthly by the Federal reserve bank to which he is designated. One of the directors of class C shall be appointed by the Board of Governors of the Federal Reserve System as deputy chairman to exercise the powers of the chairman of the board when necessary. In case of the absence of the chairman and deputy chairman, the third class C director shall preside at meetings of the board.

(Dec. 23, 1913, ch. 6, §4 (par.), 38 Stat. 256; June 21, 1917, ch. 32, §2, 40 Stat. 232; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

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 par. 22 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 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.

§306. Assistants to Federal reserve agent

Subject to the approval of the Board of Governors of the Federal Reserve System, the Federal reserve agent shall appoint one or more assistants. Such assistants, who shall be persons of tested

banking experience, shall assist the Federal reserve agent in the performance of his duties and shall also have power to act in his name and stead during his absence or disability. The Board of Governors of the Federal Reserve System shall require such bonds of the assistant Federal reserve agents as it may deem necessary for the protection of the United States. Assistants to the Federal reserve agent shall receive an annual compensation, to be fixed and paid in the same manner as that of the Federal reserve agent.

(Dec. 23, 1913, ch. 6, §4 (par.), as added June 21, 1917, ch. 32, §2, 40 Stat. 232; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of par. 23 of section 4 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other pars. of section 4, see Codification note set out under section 301 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.

§307. Compensation of directors

Directors of Federal reserve banks shall receive, in addition to any compensation otherwise provided, a reasonable allowance for necessary expenses in attending meetings of their respective boards, which amount shall be paid by the respective Federal reserve banks. Any compensation that may be provided by boards of directors of Federal reserve banks for directors, officers or employees shall be subject to the approval of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §4 (par.), 38 Stat. 257; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of par. 24 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 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.

§308. Terms of directors; vacancies

At the first meeting of the full board of directors of each Federal reserve bank, it shall be the duty of the directors of classes A, B, and C, respectively, to designate one of the members of each class whose term of office shall expire in one year from the 1st of January nearest to date of such meeting, one whose term of office shall expire at the end of two years from said date, and one whose term of office shall expire at the end of three years from said date. Thereafter every director of a Federal reserve bank chosen as hereinbefore provided shall hold office for a term of three years. Vacancies

that may occur in the several classes of directors of Federal reserve banks may be filled in the manner provided for the original selection of such directors, such appointees to hold office for the unexpired terms of their predecessors.

(Dec. 23, 1913, ch. 6, §4 (par.), 38 Stat. 257.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of par. 26 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

SUBCHAPTER VIII—STATE BANKS AS MEMBERS OF SYSTEM

§321. Application for membership

Any bank incorporated by special law of any State, operating under the Code of Law for the District of Columbia, or organized under the general laws of any State or of the United States, including Morris Plan banks and other incorporated banking institutions engaged in similar business, desiring to become a member of the Federal Reserve System, may make application to the Board of Governors of the Federal Reserve System, under such rules and regulations as it may prescribe, for the right to subscribe to the stock of the Federal Reserve bank organized within the district in which the applying bank is located. Such application shall be for the same amount of stock that the applying bank would be required to subscribe to as a national bank. For the purposes of membership of any such bank the terms "capital" and "capital stock" shall include the amount of outstanding capital notes and debentures legally issued by the applying bank and purchased by the Reconstruction Finance Corporation. The Board of Governors of the Federal Reserve System, subject to the provisions of this chapter and to such conditions as it may prescribe pursuant thereto may permit the applying bank to become a stockholder of such Federal Reserve bank.

Upon the conversion of a national bank into a State bank, or the merger or consolidation of a national bank with a State bank which is not a member of the Federal Reserve System, the resulting or continuing State bank may be admitted to membership in the Federal Reserve System by the Board of Governors of the Federal Reserve System in accordance with the provisions of this section, but, otherwise, the Federal Reserve bank stock owned by the national bank shall be canceled and paid for as provided in section 287 of this title. Upon the merger or consolidation of a national bank with a State member bank under a State charter, the membership of the State bank in the Federal Reserve System shall continue.

Any such State bank which on February 25, 1927, has established and is operating a branch or branches in conformity with the State law, may retain and operate the same while remaining or upon becoming a stockholder of such Federal Reserve bank; but no such State bank may retain or acquire stock in a Federal Reserve bank except upon relinquishment of any branch or branches established after February 25, 1927, beyond the limits of the city, town, or village in which the parent bank is situated: *Provided, however,* That nothing herein contained shall prevent any State member bank from establishing and operating branches in the United States or any dependency or insular possession thereof or in any foreign country, on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by national banks except that the approval of the Board of Governors of the Federal Reserve System, instead of the Comptroller of the Currency, shall be obtained before any State member bank may hereafter establish any branch and before any State bank hereafter admitted to membership may retain any

branch established after February 25, 1927, beyond the limits of the city, town, or village in which the parent bank is situated. The approval of the Board shall likewise be obtained before any State member bank may establish any new branch within the limits of any such city, town, or village.

(Dec. 23, 1913, ch. 6, §9 (pars.), 38 Stat. 259; June 21, 1917, ch. 32, §3, 40 Stat. 232; Feb. 25, 1927, ch. 191, §9, 44 Stat. 1229; June 16, 1933, ch. 89, §5(a), (b), 48 Stat. 164; June 16, 1934, ch. 546, §2, 48 Stat. 971; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §338, 49 Stat. 704, 721; Aug. 17, 1950, ch. 729, §8, 64 Stat. 458; July 15, 1952, ch. 753, §2(a), 66 Stat. 633; Pub. L. 108–386, §8(h), Oct. 30, 2004, 118 Stat. 2232; Pub. L. 109–351, title VII, §725(a)(2), Oct. 13, 2006, 120 Stat. 2001; Pub. L. 109–356, title I, §123(a)(2), Oct. 16, 2006, 120 Stat. 2028.)

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 the first three pars. of section 9 of act Dec. 23, 1913, as amended. The first par. of this section is comprised of the first par. of section 9 as amended in 1917 (40 Stat. 232). The second par. of this section was added as a new par. to follow the first par. of section 9, by act Aug. 17, 1950. The third par. of this section originally constituted the second par. of section 9, as amended by act Feb. 25, 1927, and became the third par. when act Aug. 17, 1950 added the new second par. The fourth to twenty-third pars. of section 9, as amended, are classified to sections 322 to 338a of this title. Section 329a of this title, which was based on par. twelve of section 9, was omitted from the Code. Paragraph twenty-two of section 9, which was classified to section 337 of this title, was repealed by Pub. L. 89–485, §13(g), July 1, 1966, 80 Stat. 243.

AMENDMENTS

2006—Pub. L. 109–351 and 109–356 amended section identically, substituting "incorporated by special law of any State, operating under the Code of Law for the District of Columbia, or" for "incorporated by special law of any State, or" in first sentence of first par.

2004—Pub. L. 108–386 struck out "(except within the District of Columbia)" before period at end of last sentence of third par.

1952—Act July 15, 1952, inserted last sentence to third par.

1950—Act Aug. 17, 1950, inserted second par., permitting application for membership in the Federal Reserve System by the State bank resulting from a conversion, merger, or consolidation transaction involving a national bank, except where the national bank merges or consolidates with a State bank already a member of System in which case the membership continues.

1935—Act Aug. 23, 1935, §338, inserted phrase in third (formerly second) par. beginning "except that the approval of the Board of Governors".

1934—Act June 16, 1934, inserted third sentence in first par.

1933—Act June 16, 1933, inserted "including Morris Plan banks and other incorporated banking institutions engaged in similar business" in first par. and inserted proviso to third (formerly second) par. through "branches of national banks".

1927—Act Feb. 25, 1927, inserted second par. which became third par. in 1950. See Codification note above.

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.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–386, §8(i), Oct. 30, 2004, 118 Stat. 2232, provided that: "The amendments made by this section [amending this section, sections 1709, 1813, 1817, 1820, 1821, 1828, 1841, 1842, 1881, 3206, and

3207 of this title, and sections 78c, 78l, and 78q of Title 15, Commerce and Trade] shall take effect on the date of the enactment of this Act [Oct. 30, 2004]."

Pub. L. 108-386, §9, Oct. 30, 2004, 118 Stat. 2233, provided that: "Except as otherwise provided, this Act [amending this section, sections 1709, 1813, 1817, 1820, 1821, 1828, 1841, 1842, 1881, 3206, and 3207 of this title, and sections 78c, 78l, and 78q of Title 15, Commerce and Trade, and enacting provisions set out as notes under this section and section 1811 of this title] and the amendments made by this Act shall apply with respect to fiscal year 2005 and each succeeding fiscal year."

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.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

§322. Determination on application

In acting upon such applications the Board of Governors of the Federal Reserve System shall consider the financial condition of the applying bank, the general character of its management, and whether or not the corporate powers exercised are consistent with the purposes of this chapter.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 21, 1917, ch. 32, §3, 40 Stat. 233; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

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 the fourth par. of section 9 of act Dec. 23, 1913, as amended. The fourth par. constituted the second par. of section 9 in 1917 (40 Stat. 232), became the third par. in 1927 (44 Stat. 1229), and became the fourth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 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.

§323. Stock in Federal reserve banks; method of payment

Whenever the Board of Governors of the Federal Reserve System shall permit the applying bank to become a stockholder in the Federal reserve bank of the district its stock subscription shall be payable on call of the Board of Governors of the Federal Reserve System, and stock issued to it shall be held subject to the provisions of this chapter.

(Dec. 23, 1913, ch. 6, §9 (par.), 38 Stat. 259; June 21, 1917, ch. 32, §3, 40 Stat. 233; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

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 the fifth par. of section 9 of act Dec. 23, 1913, as amended. The fifth par. constituted the third par. of section 9 in 1917 (40 Stat. 232), became the fourth par. in 1927 (44 Stat. 1229), and became the fifth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 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.

§324. Laws applicable on becoming members

All banks admitted to membership under authority of this section shall be required to comply with the reserve and capital requirements of this chapter, to conform to those provisions of law imposed on national banks which prohibit such banks from lending on or purchasing their own stock and which relate to the withdrawal or impairment of their capital stock, and to conform to the provisions of sections 56 and 60(b) of this title with respect to the payment of dividends; except that any reference in any such provision to the Comptroller of the Currency shall be deemed for the purposes of this sentence to be a reference to the Board of Governors of the Federal Reserve System. Such banks and the officers, agents, and employees thereof shall also be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of title 18, and shall be required to make reports of condition and of the payment of dividends to the Federal Reserve bank of which they become a member. Not less than three of such reports shall be made annually on call of the Federal Reserve bank on dates to be fixed by the Board of Governors of the Federal Reserve System. Any bank which (A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or (B) inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any bank which fails to make or publish such reports within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the

amount of the penalty) shall be subject to the provisions of such section. Any bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this paragraph. Such reports of condition shall be in such form and shall contain such information as the Board of Governors of the Federal Reserve System may require.

(Dec. 23, 1913, ch. 6, §9 (par.), 38 Stat. 259; June 21, 1917, ch. 32, §3, 40 Stat. 233; Aug. 23, 1935, ch. 614, title III, §320, 49 Stat. 713; Sept. 3, 1954, ch. 1263, §27, 68 Stat. 1236; Pub. L. 86-230, §21(b), Sept. 8, 1959, 73 Stat. 466; Pub. L. 101-73, title IX, §911(d), Aug. 9, 1989, 103 Stat. 480; Pub. L. 103-325, title III, §308(c), Sept. 23, 1994, 108 Stat. 2218.)

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 the sixth par. of section 9 of act Dec. 23, 1913, as amended. The sixth par. constituted the fourth par. of section 9 in 1917 (40 Stat. 232), became the fifth par. in 1927 (44 Stat. 1229), and became the sixth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1994—Pub. L. 103-325 struck out before period at end "and shall be published by the reporting banks in such manner and in accordance with such regulations as the said Board may prescribe".

1989—Pub. L. 101-73 substituted provisions for different and increasing levels of penalties, assessment and collection of penalties, and agency hearings for provision that failure to make such reports within ten days after the date they were called for would subject the offending bank to a penalty of \$100 a day for each day that it failed to transmit such report, such penalty to have been collected by the Federal Reserve bank by suit or otherwise.

1959—Pub. L. 86-230 required State member banks to comply with section 60(b) of this title and inserted provisions requiring a reference to the Comptroller of the Currency to be deemed a reference to the Board of Governors of the Federal Reserve System.

1954—Act Sept. 3, 1954, substituted "sections 334, 656, and 1005 of title 18" for "section 592 of this title", and "Board of Governors of the Federal Reserve System" for "Federal Reserve Board".

1935—Act Aug. 23, 1935 inserted last sentence of section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable with respect to reports filed or required to be filed after Aug. 9, 1989, see section 911(i) of Pub. L. 101-73, set out as a note under section 161 of this title.

§325. Examinations

As a condition of membership such banks shall likewise be subject to examinations made by direction of the Board of Governors of the Federal Reserve System or of the Federal reserve bank by examiners selected or approved by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 21, 1917, ch. 32, §3, 40 Stat. 233; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the seventh par. of section 9 of act Dec. 23, 1913, as amended. The seventh par. constituted the fifth par. of section 9 in 1917 (40 Stat. 232), became the sixth par. in 1927 (44 Stat. 1229), and became the seventh par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 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.

§326. Acceptance of examinations and reports by State authorities; special examinations

Whenever the directors of the Federal reserve bank shall approve the examinations made by the State authorities, such examinations and the reports thereof may be accepted in lieu of examinations made by examiners selected or approved by the Board of Governors of the Federal Reserve System: *Provided, however,* That when it deems it necessary the board may order special examinations by examiners of its own selection and shall in all cases approve the form of the report. The expenses of all examinations, other than those made by State authorities, may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against the banks examined and, when so assessed, shall be paid by the banks examined. The Board of Governors of the Federal Reserve System, at its discretion, may furnish any report of examination or other confidential supervisory information concerning any State member bank or other entity examined under any other authority of the Board, to any Federal or State agency or authority with supervisory or regulatory authority over the examined entity, to any officer, director, or receiver of the examined entity, and to any other person that the Board determines to be proper.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 21, 1917, ch. 32, §3, 40 Stat. 233; amended June 26, 1930, ch. 611, §1, 46 Stat. 814; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 106–102, title VII, §727(a), Nov. 12, 1999, 113 Stat. 1475.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the eighth par. of section 9 of act Dec. 23, 1913, as amended. The eighth par. constituted the sixth par. of section 9 in 1917 (40 Stat. 232), became the seventh par. in 1927 (44 Stat. 1229), and became the eighth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1999—Pub. L. 106–102 inserted last sentence and struck out former last sentence which read as follows: "Copies of the reports of such examinations may, in the discretion of the Board of Governors of the Federal Reserve System, be furnished to the State authorities having supervision of such banks, to officers, directors, or receivers of such banks, and to any other proper persons."

1930—Act June 26, 1930, amended next to last sentence and inserted last sentence.

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.

§327. Surrender of stock and cancellation of memberships

If at any time it shall appear to the Board of Governors of the Federal Reserve System that a member bank has failed to comply with the provisions of this subchapter, or the regulations of the Board of Governors of the Federal Reserve System made pursuant thereto, or has ceased to exercise banking functions without a receiver or liquidating agent having been appointed therefor, it shall be within the power of the board after hearing to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership. The Board of Governors of the Federal Reserve System may restore membership upon due proof of compliance with the conditions imposed by this subchapter.

(Dec. 23, 1913, ch. 6, §9 (par.), 38 Stat. 259; June 21, 1917, ch. 32, §3, 40 Stat. 233; Apr. 23, 1930, ch. 207, §2, 46 Stat. 251; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the ninth par. of section 9 of act Dec. 23, 1913, as amended. The ninth par. constituted the seventh par. of section 9 in 1917 (40 Stat. 232), became the eighth par. in 1927 (44 Stat. 1229), and became the ninth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1930—Act Apr. 23, 1930, inserted "or has ceased to exercise banking functions without a receiver or liquidating agent having been appointed therefor," to first sentence.

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.

§328. Withdrawals from membership

Any State bank or trust company desiring to withdraw from membership in a Federal Reserve bank may do so, after six months' written notice shall have been filed with the Board of Governors of the Federal Reserve System, upon the surrender and cancellation of all of its holdings of capital stock in the Federal reserve bank: *Provided*, That the Board of Governors of the Federal Reserve System, in its discretion and subject to such conditions as it may prescribe, may waive such six months' notice in individual cases and may permit any such State bank or trust company to withdraw from membership in a Federal reserve bank prior to the expiration of six months from the date of the written notice of its intention to withdraw: *Provided, however*, That no Federal reserve bank shall, except under express authority of the Board of Governors of the Federal Reserve System, cancel within the same calendar year more than 25 per centum of its capital stock for the purpose of effecting voluntary withdrawals during that year. All such applications shall be dealt with in the order in which they are filed with the board. Whenever a member bank shall surrender its stock holdings in a Federal reserve bank, or shall be ordered to do so by the Board of Governors of the Federal Reserve System, under authority of law, all of its rights and privileges as a member bank shall thereupon cease and determine, and after due provision has been made for any indebtedness due or to become due to the Federal reserve bank it shall be entitled to a refund of its cash-paid subscription with interest at the rate of one-half of 1 per centum per month from date of last

dividend, if earned, the amount refunded in no event to exceed the book value of the stock at that time, and shall likewise be entitled to repayment of deposits and of any other balance due from the Federal reserve bank.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 21, 1917, ch. 32, §3, 40 Stat. 233; amended Apr. 17, 1930, ch. 175, 46 Stat. 170; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the tenth par. of section 9 of act Dec. 23, 1913, as amended. The tenth par. constituted the eighth par. of section 9 in 1917 (40 Stat. 232), became the ninth par. in 1927 (44 Stat. 1229), and became the tenth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1930—Act Apr. 17, 1930, amended part of section preceding second proviso.

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.

§329. Capital stock required as condition precedent to membership

No applying bank shall be admitted to membership unless it possesses capital stock and surplus which, in the judgment of the Board of Governors of the Federal Reserve System, are adequate in relation to the character and condition of its assets and to its existing and prospective deposit liabilities and other corporate responsibilities: *Provided*, That no bank engaged in the business of receiving deposits other than trust funds, which does not possess capital stock and surplus in an amount equal to that which would be required for the establishment of a national banking association in the place in which it is located, shall be admitted to membership unless it is, or has been, approved for deposit insurance under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]. The capital stock of a State member bank shall not be reduced except with the prior consent of the Board.

(Dec. 23, 1913, ch. 6, §9 (par.), 38 Stat. 259; June 21, 1917, ch. 32, §3, 40 Stat. 234; Mar. 4, 1923, ch. 252, title IV, §401, 42 Stat. 1478; June 16, 1933, ch. 89, §17(b), 48 Stat. 185; July 15, 1952, ch. 753, §1, 66 Stat. 633.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in text, is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

Section is comprised of the eleventh par. of section 9 of act Dec. 23, 1913, as amended. The eleventh par. constituted the ninth par. of section 9 in 1917 (40 Stat. 232), became the tenth par. in 1927 (44 Stat. 1229), and became the eleventh par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

1952—Act July 15, 1952, vested in Board of Governors discretion with respect to admission of State banks to membership.

1933—Act June 16, 1933, dropped alternative method of meeting the capital requirement and inserted proviso.

§329a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, §9 (par.), as added Aug. 23, 1935, ch. 614, title II, §202, 49 Stat. 704, related to waiver of the requirements of sections 321 to 338 of this title for admission to membership in the case of a bank which was required to become a member of the Federal Reserve System under a former provision of subsection (y) of former section 264 of this title, which provision was repealed by act June 20, 1939, ch. 214, §2, 53 Stat. 842.

This section was based on the twelfth par. of section 9 of act Dec. 23, 1913, as amended. The twelfth par. constituted the eleventh par. of section 9 when added in 1935, and became the twelfth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under section 321 of this title.

§330. Laws applicable on becoming members; discounts for State banks

Banks becoming members of the Federal reserve system under authority of this subchapter shall be subject to the provisions of this subchapter and to those of this chapter which relate specifically to member banks, but shall not be subject to examination under the provisions of sections 481 and 482 of this title. Subject to the provisions of this chapter and to the regulations of the board made pursuant thereto, any bank becoming a member of the Federal reserve system shall retain its full charter and statutory rights as a State bank or trust company, and may continue to exercise all corporate powers granted it by the State in which it was created, and shall be entitled to all privileges of member banks, except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 1831a of this title. No Federal reserve bank shall be permitted to discount for any State bank or trust company notes, drafts, or bills of exchange of any one borrower who is liable for borrowed money to such State bank or trust company in an amount greater than that which could be borrowed lawfully from such State bank or trust company were it a national banking association. The Federal reserve bank, as a condition of the discount of notes, drafts, and bills of exchange for such State bank or trust company, shall require a certificate or guaranty to the effect that the borrower is not liable to such bank in excess of the amount provided by this subchapter, and will not be permitted to become liable in excess of this amount while such notes, drafts, or bills of exchange are under discount with the Federal reserve bank.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 21, 1917, ch. 32, §3, 40 Stat. 234; amended July 1, 1922, ch. 274, 42 Stat. 821; Pub. L. 102-242, title III, §303(b), Dec. 19, 1991, 105 Stat. 2353.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

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 the thirteenth par. of section 9 of act Dec. 23, 1913, as amended. The thirteenth par. constituted the tenth par. of section 9 in 1917 (40 Stat. 232), became the eleventh par. in 1927 (44 Stat. 1229),

became the twelfth par. in 1935 (49 Stat. 704), and became the thirteenth par. in 1950 (64 Stat. 458). For further details, see Codification note set out under sections 321 and 329 of this title.

AMENDMENTS

1991—Pub. L. 102–242 substituted ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 1831a of this title. No Federal reserve bank" for ": *Provided, however,* That no Federal reserve bank".

§331. Certifying checks on State banks admitted as members

It shall be unlawful for any officer, clerk, or agent of any bank admitted to membership under authority of this subchapter, to certify any check drawn upon such bank unless the person or company drawing the check has on deposit therewith at the time such check is certified an amount of money equal to the amount specified in such check. Any check so certified by duly authorized officers shall be a good and valid obligation against such bank, but the act of any such officer, clerk, or agent in violation of this subchapter, may subject such bank to a forfeiture of its membership in the Federal reserve system upon hearing by the Board of Governors of the Federal Reserve System. (Dec. 23, 1913, ch. 6, §9 (par.), as added June 21, 1917, ch. 32, §3, 40 Stat. 234; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the fourteenth par. of section 9 of act Dec. 23, 1913, as amended. The fourteenth par. constituted the eleventh par. of section 9 in 1917 (40 Stat. 232), became the twelfth par. in 1927 (44 Stat. 1229), became the thirteenth par. in 1935 (49 Stat. 704), and became the fourteenth par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a 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.

§332. Depositaries of public money; financial agents; security required

All banks or trust companies incorporated by special law or organized under the general laws of any State, which are members of the Federal reserve system, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government, as may be required of them. The Secretary of the Treasury shall require of the banks and trust companies thus designated satisfactory security, by the deposit of United States bonds or otherwise, for the safe keeping and prompt payment of the public money deposited with them and for the faithful performance of their duties as financial agents of the Government.

(Dec. 23, 1913, ch. 6, §9 (par.), as added May 7, 1928, ch. 507, 45 Stat. 492.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the fifteenth par. of section 9 of act Dec. 23, 1913, as amended. The fifteenth par. constituted the thirteenth par. of section 9 in 1928 (45 Stat. 492), became the fourteenth par. in 1935 (49 Stat. 704), and became the fifteenth par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

§333. Mutual savings banks; application and admission to membership in Federal Reserve System

Any mutual savings bank having no capital stock (including any other banking institution the capital of which consists of weekly or other time deposits which are segregated from all other deposits and are regarded as capital stock for the purposes of taxation and the declaration of dividends), but having surplus and undivided profits not less than the amount of capital required for the organization of a national bank in the same place, may apply for and be admitted to membership in the Federal Reserve System in the same manner and subject to the same provisions of law as State banks and trust companies, except that any such savings bank shall subscribe for capital stock of the Federal reserve bank in an amount equal to six-tenths of 1 per centum of its total deposit liabilities as shown by the most recent report of examination of such savings bank preceding its admission to membership. Thereafter such subscription shall be adjusted semiannually on the same percentage basis in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System. If any such mutual savings bank applying for membership is not permitted by the laws under which it was organized to purchase stock in a Federal reserve bank, it shall, upon admission to the system, deposit with the Federal reserve bank an amount equal to the amount which it would have been required to pay in on account of a subscription to capital stock. Thereafter such deposit shall be adjusted semiannually in the same manner as subscriptions for stock. Such deposits shall be subject to the same conditions with respect to repayment as amounts paid upon subscriptions to capital stock by other member banks and the Federal reserve bank shall pay interest thereon at the same rate as dividends are actually paid on outstanding shares of stock of such Federal reserve bank. If the laws under which any such savings bank was organized be amended so as to authorize mutual savings banks to subscribe for Federal reserve bank stock, such savings bank shall thereupon subscribe for the appropriate amount of stock in the Federal reserve bank, and the deposit hereinbefore provided for in lieu of payment upon capital stock shall be applied upon such subscription. If the laws under which any such savings bank was organized be not amended at the next session of the legislature following the admission of such savings bank to membership so as to authorize mutual savings banks to purchase Federal reserve bank stock, or if such laws be so amended and such bank fail within six months thereafter to purchase such stock, all of its rights and privileges as a member bank shall be forfeited and its membership in the Federal Reserve System shall be terminated in the manner prescribed in this subchapter with respect to State member banks and trust companies. Each such mutual savings bank shall comply with all the provisions of law applicable to State member banks and trust companies, with the regulations of the Board of Governors of the Federal Reserve System and with the conditions of membership prescribed for such savings bank at the time of admission to membership, except as otherwise hereinbefore provided with respect to capital stock.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 16, 1933, ch. 89, §5(c), 48 Stat. 164; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the sixteenth par. of section 9 of act Dec. 23, 1913, as amended. The sixteenth par. constituted the fourteenth par. of section 9 in 1933 (48 Stat. 164), became the fifteenth par. in 1935 (49 Stat. 704), and became the sixteenth par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a 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.

§334. Reports from affiliates; penalty for failure to furnish

Each bank admitted to membership under this subchapter shall obtain from each of its affiliates other than member banks and furnish to the Federal reserve bank of its district and to the Board of Governors of the Federal Reserve System not less than three reports during each year. Such reports shall be in such form as the Board of Governors of the Federal Reserve System may prescribe, shall be verified by the oath or affirmation of the president or such other officer as may be designated by the board of directors of such affiliate to verify such reports, and shall disclose the information hereinafter provided for as of dates identical with those fixed by the Board of Governors of the Federal Reserve System for reports of the condition of the affiliated member bank. Each such report of an affiliate shall be transmitted as herein provided at the same time as the corresponding report of the affiliated member bank, except that the Board of Governors of the Federal Reserve System may, in its discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the Board of Governors of the Federal Reserve System shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the board to inform itself as to the effect of such relations upon the affairs of such bank. The reports of such affiliates shall be published by the bank under the same conditions as govern its own condition reports.

Any such affiliated member bank may be required to obtain from any such affiliate such additional reports as in the opinion of its Federal reserve bank or the Board of Governors of the Federal Reserve System may be necessary in order to obtain a full and complete knowledge of the condition of the affiliated member bank. Such additional reports shall be transmitted to the Federal reserve bank and the Board of Governors of the Federal Reserve System and shall be in such form as the Board of Governors of the Federal Reserve System may prescribe.

Any such affiliated member bank which fails to obtain from any of its affiliates and furnish any report provided for by the two preceding paragraphs of this section shall be subject to a penalty of \$100 for each day during which such failure continues, which, by direction of the Board of Governors of the Federal Reserve System, 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, §9 (pars.), as added June 16, 1933, ch. 89, §5(c), 48 Stat. 165; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 89-485, §13(f), July 1, 1966, 80 Stat. 243.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the seventeenth to nineteenth pars. of act Dec. 23, 1913, as amended. These pars. constituted pars. fifteen to seventeen of section 9 in 1933 (48 Stat. 165), became pars. sixteen to eighteen in 1935 (49 Stat. 704), and became pars. seventeen to nineteen in 1950 (64 Stat. 458). For further details, see

Codification notes set out under sections 321 and 329a of this title.

AMENDMENTS

1966—Pub. L. 89–485 struck out last sentence of third par. stating that term "affiliate" shall include holding company affiliates as well as other affiliates for the purposes of such par. and preceding two pars.

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.

§335. Dealing in investment securities; limitations and conditions

State member banks shall be subject to the same limitations and conditions with respect to the purchasing, selling, underwriting, and holding of investment securities and stock as are applicable in the case of national banks under paragraph "Seventh" of section 24 of this title. This section shall not apply to any interest held by a State member bank in accordance with section 24a of this title and subject to the same conditions and limitations provided in such section.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 16, 1933, ch. 89, §5(c), 48 Stat. 165; amended Pub. L. 106–102, title I, §121(d)(2), Nov. 12, 1999, 113 Stat. 1381.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the twentieth par. of section 9 of act Dec. 23, 1913, as amended. The twentieth par. constituted the eighteenth par. of section 9 in 1933 (48 Stat. 16), became the nineteenth par. in 1935 (49 Stat. 704), and became the twentieth par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

AMENDMENTS

1999—Pub. L. 106–102 inserted at end "This section shall not apply to any interest held by a State member bank in accordance with section 24a of this title and subject to the same conditions and limitations provided in such section."

STATUTORY NOTES AND RELATED SUBSIDIARIES

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.

§336. Certificates of stock; representation of stock of other corporations

After August 23, 1935, no certificate evidencing the stock of any State member bank shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934, in holding the bank premises of such member bank, nor shall the ownership, sale, or transfer of any certificate representing the stock of any State member bank be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such member bank: *Provided*, That this subchapter shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a State member bank.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 16, 1933, ch. 89, §5(c), 48 Stat. 165; amended Aug. 23, 1935, ch. 614, title III, §310(b), 49 Stat. 710.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the twenty-first par. of section 9 of act Dec. 23, 1913, as amended. The twenty-first par. constituted the nineteenth par. of section 9 in 1933 (48 Stat. 165), became the twentieth par. in 1935 (49 Stat. 704), and became the twenty-first par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, among other changes, inserted proviso.

§337. Repealed. Pub. L. 89–485, §13(g), July 1, 1966, 80 Stat. 243

Section, act Dec. 23, 1913, ch. 6, §9 (par.), as added June 16, 1933, ch. 89, §5(c), 48 Stat. 166, required agreements of State member banks with holding company affiliates to be subject to voting restrictions and to provide for forfeiture of membership on failure to file agreement.

This section was comprised of the twenty-second par. of section 9 of act Dec. 23, 1913, as amended. The twenty-second par. constituted the twentieth par. of section 9 when added in 1933, became the twenty-first par. in 1935 (49 Stat. 704), and became the twenty-second par. in 1950 (64 Stat. 458). For further details, see Codification notes set out under sections 321 and 329a of this title.

§338. Examination of affiliates; forfeiture of membership on refusal of affiliate to give information or pay expense

In connection with examinations of State member banks, examiners selected or approved by the Board of Governors of the Federal Reserve System shall make such examinations of the affairs of all affiliates of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon the affairs of such banks. The expense of examination of affiliates of any State member bank may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against such bank and, when so assessed, shall be paid by such bank. In the event of the refusal to give any information requested in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, or in the event of the refusal to pay any expenses so assessed, the Board of Governors of the Federal Reserve System may, in its discretion, require any or all State member banks affiliated with such affiliate to surrender their stock in the Federal Reserve bank and to forfeit all rights and privileges of membership in the Federal Reserve System, as provided in this subchapter.

(Dec. 23, 1913, ch. 6, §9 (par.), as added June 16, 1933, ch. 89, §5(c), 48 Stat. 166; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 9 of act Dec. 23, 1913, which is classified generally to this subchapter (§321 et seq.).

CODIFICATION

Section is comprised of the twenty-second par. of section 9 of act Dec. 23, 1913, as amended. The

twenty-second par. constituted the twenty-first par. of section 9 in 1933 (48 Stat. 166), became the twenty-second par. in 1935 (49 Stat. 704), and became the twenty-third par. in 1950 (64 Stat. 458), and became the twenty-second par. in 1966 (80 Stat. 243). For further details, see Codification notes set out under sections 321 and 329a 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.

§338a. Investments to promote public welfare and community development; limitation on investments

A State member bank may make investments directly or indirectly, each of which is designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law. A State member bank shall not make any such investment if the investment would expose the State member bank to unlimited liability. The Board shall limit a State member bank's investment in any 1 project and a State member bank's aggregate investments under this paragraph. The aggregate amount of investments of any State member bank under this paragraph may not exceed an amount equal to the sum of 5 percent of the State member bank's capital stock actually paid in and unimpaired and 5 percent of the State member bank's unimpaired surplus, unless the Board determines, by order, that a higher amount will pose no significant risk to the affected deposit insurance fund; and the State member bank is adequately capitalized. In no case shall the aggregate amount of investments of any State member bank under this paragraph exceed an amount equal to the sum of 15 percent of the State member bank's capital stock actually paid in and unimpaired and 15 percent of the State member bank's unimpaired surplus. The foregoing standards and limitations apply to investments under this paragraph made by a State member bank directly and by its subsidiaries.

(Dec. 23, 1913, ch. 6, §9(23), formerly §9 (par.), as added Pub. L. 102–485, §6(b), Oct. 23, 1992, 106 Stat. 2774; amended Pub. L. 104–208, div. A, title II, §2704(d)(8), Sept. 30, 1996, 110 Stat. 3009–489; Pub. L. 109–171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, §9(b), Feb. 15, 2006, 119 Stat. 3616; renumbered §9(23) and amended Pub. L. 109–351, title III, §305(b), Oct. 13, 2006, 120 Stat. 1971; Pub. L. 110–289, div. B, title V, §2503(b), July 30, 2008, 122 Stat. 2857.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of par. (23) (the twenty-third par.) of section 9 of act Dec. 23, 1913, as amended. For further details, see Codification note set out under section 321 of this title.

AMENDMENTS

2008—Pub. L. 110–289, which directed substitution of "is designed primarily to promote the public welfare, including the welfare of" for "promotes the public welfare by benefitting primarily" in first sentence, was executed by making the substitution for "promotes the public welfare by benefitting primarily" to reflect the probable intent of Congress.

2006—Pub. L. 109–351 amended section generally. Prior to amendment, section read as follows: "State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board shall limit a bank's

investments in any 1 project and bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the Deposit Insurance Fund, and the bank is adequately capitalized. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund."

Pub. L. 109–173, in fourth sentence, substituted "Deposit Insurance Fund" for "affected deposit insurance fund".

Pub. L. 109–171 repealed Pub. L. 104–208, §2704(d)(8). See 1996 Amendment note below.

1996—Pub. L. 104–208, §2704(d)(8), which directed the amendment of the fourth sentence by substituting "Deposit Insurance Fund" for "affected deposit insurance fund", was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109–173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

§339. Participation by State member banks in lotteries and related activities

(a) Prohibited activities

A State member bank may not—

- (1) deal in lottery tickets;
- (2) deal in bets used as a means or substitute for participation in a lottery;
- (3) announce, advertise, or publicize the existence of any lottery; ¹
- (4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A State member bank may not permit—

- (1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a), or
- (2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a).

(c) Definitions

As used in this section—

- (1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting.
- (2) The term "lottery" includes any arrangement, other than a savings promotion raffle, whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—
 - (A) a random selection;
 - (B) a game, race, or contest; or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(4) The term "savings promotion raffle" means a contest in which the sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account or other savings program, where each ticket or entry has an equal chance of being drawn, such contest being subject to regulations that may from time to time be promulgated by the appropriate prudential regulator (as defined in section 5481 of this title).

(d) Lawful banking services connected with operation of lottery

Nothing contained in this section prohibits a State member bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(Dec. 13, 1913, ch. 6, §9A, as added Pub. L. 90–203, §2, Dec. 15, 1967, 81 Stat. 609; amended Pub. L. 113–251, §3(b), Dec. 18, 2014, 128 Stat. 2889.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as section 9A of act Dec. 13, 1913, and not as part of section 9 of such act which comprises this subchapter.

AMENDMENTS

2014—Subsec. (c)(2). Pub. L. 113–251, §3(b)(1), inserted ", other than a savings promotion raffle," before "whereby" in introductory provisions.

Subsec. (c)(4). Pub. L. 113–251, §3(b)(2), added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90–203, set out as a note under section 25a of this title.

¹ So in original. The word "or" probably should appear.

§339a. Resolution of clearing banks

(a) Conservatorship or receivership

(1) Appointment

The Board may appoint a conservator or receiver to take possession and control of any uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 4422 ¹ of this title to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

(2) Powers

The conservator or receiver for an uninsured State member bank referred to in paragraph (1) shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

(b) Board authority

The Board shall have the same authority with respect to any conservator or receiver appointed under subsection (a), and the uninsured State member bank for which the conservator or receiver has been appointed, as the Comptroller of the Currency has with respect to a conservator or receiver for a national bank and the national bank for which the conservator or receiver has been appointed.

(c) Bankruptcy proceedings

The Board (in the case of an uninsured State member bank which operates, or operates as, such a multilateral clearing organization) may direct a conservator or receiver appointed for the bank to file a petition pursuant to title 11, in which case, title 11 shall apply to the bank in lieu of otherwise applicable Federal or State insolvency law.

(Dec. 13, 1913, ch. 6, §9B, as added Pub. L. 106–554, §1(a)(5) [title I, §112(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–392.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4422 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 111–203, title VII, §740, July 21, 2010, 124 Stat. 1729.

CODIFICATION

Section was enacted as section 9B of act Dec. 13, 1913, and not as part of section 9 of such act which comprises this subchapter.

¹ See References in Text note below.

**SUBCHAPTER IX—POWERS AND DUTIES OF FEDERAL RESERVE
BANKS**

§341. General enumeration of powers

Upon the filing of the organization certificate with the Comptroller of the Currency a Federal reserve bank shall become a body corporate and as such, and in the name designated in such organization certificate, shall have power—

First. To adopt and use a corporate seal.

Second. To have succession after February 25, 1927, until dissolved by Act of Congress or until forfeiture of franchise for violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity.

Fifth. To appoint by its board of directors a president, vice presidents, and such officers and employees as are not otherwise provided for in this chapter, to define their duties, require bonds for them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. The president shall be the chief executive officer of the bank and shall be appointed by the Class B and Class C directors of the bank, with the approval of the Board of Governors of the Federal Reserve System, for a term of 5 years; and all other executive officers and all employees of the bank shall be directly responsible to the president. The first vice president of the bank shall be appointed in the same manner and for the same term as the president, and shall, in the absence or disability of the president

or during a vacancy in the office of president, serve as chief executive officer of the bank. Whenever a vacancy shall occur in the office of the president or the first vice president, it shall be filled in the manner provided for original appointments; and the person so appointed shall hold office until the expiration of the term of his predecessor.

Sixth. To prescribe by its board of directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this chapter and such incidental powers as shall be necessary to carry on the business of banking within the limitations prescribed by this chapter.

Eighth. Upon deposit with the Treasurer of the United States of any bonds of the United States in the manner provided by existing law relating to national banks, to receive from the Secretary of the Treasury circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited, such notes to be issued under the same conditions and provisions of law as relate to the issue of circulating notes of national banks secured by bonds of the United States bearing the circulating privilege, except that the issue of such notes shall not be limited to the capital stock of such Federal reserve bank.

But no Federal reserve bank shall transact any business except such as is incidental and necessarily preliminary to its organization until it has been authorized by the Comptroller of the Currency to commence business under the provisions of this chapter.

(Dec. 23, 1913, ch. 6, §4 (pars.), 38 Stat. 254; Feb. 25, 1927, ch. 191, §18, 44 Stat. 1234; Aug. 23, 1935, ch. 614, title II, §201, 49 Stat. 703; Pub. L. 103–325, title VI, §602(g)(1), Sept. 23, 1994, 108 Stat. 2293; Pub. L. 111–203, title XI, §1107, July 21, 2010, 124 Stat. 2126.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in the Fifth, Seventh, and closing pars., 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 pars. 4 and 5 of section 4 of act Dec. 23, 1913. For classification to this title of other pars. of section 4, see Codification note set out under section 301 of this title.

AMENDMENTS

2010—Pub. L. 111–203 amended fifth power by substituting "The president shall be the chief executive officer of the bank and shall be appointed by the Class B and Class C directors of the bank, with the approval of the Board of Governors of the Federal Reserve System, for a term of 5 years; and all other executive officers and all employees of the bank shall be directly responsible to the president." for "The president shall be the chief executive officer of the bank and shall be appointed by the board of directors, with the approval of the Board of Governors of the Federal Reserve System, for a term of five years; and all other executive officers and all employees of the bank shall be directly responsible to him."

1994—Pub. L. 103–325 amended eighth power by substituting "Secretary of the Treasury" for "Comptroller of the Currency".

1935—Act Aug. 23, 1935, amended fifth power.

1927—Act Feb. 25, 1927, amended second power.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

EFFECTIVE DATE OF 1935 AMENDMENT

Act Aug. 23, 1935, ch. 614, title II, §201, 49 Stat. 703, provided that the amendment made by that section is effective Mar. 1, 1936.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note under section 55 of this title.

§342. Deposits; exchange and collection; member and nonmember banks or other depository institutions; charges

Any Federal reserve bank may receive from any of its member banks, or other depository institutions, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks, and drafts, payable upon presentation or other items, and also, for collection, maturing notes and bills; or, solely for purposes of exchange or of collection may receive from other Federal reserve banks deposits of current funds in lawful money, national-bank notes, or checks upon other Federal reserve banks, and checks and drafts, payable upon presentation within its district or other items, and maturing notes and bills payable within its district; or, solely for the purposes of exchange or of collection, may receive from any nonmember bank or trust company or other depository institution deposits of current funds in lawful money, national-bank notes, Federal reserve notes, checks and drafts payable upon presentation or other items, or maturing notes and bills: *Provided*, Such nonmember bank or trust company or other depository institution maintains with the Federal Reserve bank of its district a balance in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate: *Provided further*, That nothing in this or any other section of this chapter shall be construed as prohibiting a member or nonmember bank or other depository institution from making reasonable charges, to be determined and regulated by the Board of Governors of the Federal Reserve System, but in no case to exceed 10 cents per \$100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise; but no such charges shall be made against the Federal reserve banks.

(Dec. 23, 1913, ch. 6, §13 (par.), 38 Stat. 263; Sept. 7, 1916, ch. 461, 39 Stat. 752; June 21, 1917, ch. 32, §4, 40 Stat. 235; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 96-221, title I, §105(a), Mar. 31, 1980, 94 Stat. 139.)

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 the first par. of section 13 of act Dec. 23, 1913. The second par., par. (3), and the fourth to eighth and tenth to fourteenth pars. of section 13 are classified to sections 92, 343 to 347, 347c, 347d, 361, 372, and 373 of this title.

For decision by U.S. Supreme Court that, despite faulty placement of quotation marks, act Sept. 7, 1916, placed within section 13 of act Dec. 23, 1913, each of the ten pars. located between the phrases that introduced the amendments to sections 13 and 14 of said act, that only the seventh par. (rather than seventh to tenth pars.) comprised the amended R.S. §5202, and that section 20 of act Apr. 5, 1918 (40 Stat. 512) (which amended R.S. §5202 comprised of a single par.), did not amend section 13 of said act so as to repeal the eighth to tenth pars., see *United States National Bank of Oregon v. Independent Insurance Agents of America, Inc., et al.*, 508 U.S. 439, 113 S.Ct. 2173, 124 L.Ed. 2d 402 (1993). As the result of subsequent amendments, such seventh to tenth pars. of section 13 now constitute the ninth to twelfth pars. The ninth par. amended

former section 82 of this title, and the tenth to twelfth pars. are classified to sections 361, 92, and 373, respectively, of this title.

AMENDMENTS

1980—Pub. L. 96–221 inserted references to other depository institutions and provisions respecting applicability to other items presented for payment, and substituted provisions setting forth items to constitute required balance to include items in transit, Federal Reserve bank services, and other appropriate factors, for provisions requiring the balance to be sufficient to offset items in transit held for the account of the bank.

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96–221, set out as a note under section 248 of this title.

§343. Discount of obligations arising out of actual commercial transactions

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used, for such purposes, the Board of Governors of the Federal Reserve System to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this chapter. Nothing in this chapter contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise from being eligible for such discount, and the notes, drafts, and bills of exchange of factors issued as such making advances exclusively to producers of staple agricultural products in their raw state shall be eligible for such discount; but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States. Notes, drafts, and bills admitted to discount under the terms of this paragraph must have a maturity at the time of discount of not more than ninety days, exclusive of grace.

(3)(A) ¹ In unusual and exigent circumstances, the Board of Governors of the Federal Reserve System, by the affirmative vote of not less than five members, may authorize any Federal reserve bank, during such periods as the said board may determine, at rates established in accordance with the provisions of section 357 of this title, to discount for any participant in any program or facility with broad-based eligibility, notes, drafts, and bills of exchange when such notes, drafts, and bills of exchange are indorsed or otherwise secured to the satisfaction of the Federal reserve bank: *Provided*, That before discounting any such note, draft, or bill of exchange, the Federal reserve bank shall obtain evidence that such participant in any program or facility with broad-based eligibility is unable to secure adequate credit accommodations from other banking institutions. All such discounts for any participant in any program or facility with broad-based eligibility shall be subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe.

(B)(i) As soon as is practicable after July 21, 2010, the Board shall establish, by regulation, in consultation with the Secretary of the Treasury, the policies and procedures governing emergency lending under this paragraph. Such policies and procedures shall be designed to ensure that any emergency lending program or facility is for the purpose of providing liquidity to the financial system, and not to aid a failing financial company, and that the security for emergency loans is

sufficient to protect taxpayers from losses and that any such program is terminated in a timely and orderly fashion. The policies and procedures established by the Board shall require that a Federal reserve bank assign, consistent with sound risk management practices and to ensure protection for the taxpayer, a lendable value to all collateral for a loan executed by a Federal reserve bank under this paragraph in determining whether the loan is secured satisfactorily for purposes of this paragraph.

(ii) The Board shall establish procedures to prohibit borrowing from programs and facilities by borrowers that are insolvent. Such procedures may include a certification from the chief executive officer (or other authorized officer) of the borrower, at the time the borrower initially borrows under the program or facility (with a duty by the borrower to update the certification if the information in the certification materially changes), that the borrower is not insolvent. A borrower shall be considered insolvent for purposes of this subparagraph, if the borrower is in bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act [12 U.S.C. 5381 et seq.], or any other Federal or State insolvency proceeding.

(iii) A program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding, shall not be considered a program or facility with broad-based eligibility.

(iv) The Board may not establish any program or facility under this paragraph without the prior approval of the Secretary of the Treasury.

(C) The Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(i) not later than 7 days after the Board authorizes any loan or other financial assistance under this paragraph, a report that includes—

(I) the justification for the exercise of authority to provide such assistance;

(II) the identity of the recipients of such assistance;

(III) the date and amount of the assistance, and form in which the assistance was provided;

and

(IV) the material terms of the assistance, including—

(aa) duration;

(bb) collateral pledged and the value thereof;

(cc) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

(dd) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and

(ee) the expected costs to the taxpayers of such assistance; and

(ii) once every 30 days, with respect to any outstanding loan or other financial assistance under this paragraph, written updates on—

(I) the value of collateral;

(II) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

(III) the expected or final cost to the taxpayers of such assistance.

(D) The information required to be submitted to Congress under subparagraph (C) related to—

(i) the identity of the participants in an emergency lending program or facility commenced under this paragraph;

(ii) the amounts borrowed by each participant in any such program or facility;

(iii) identifying details concerning the assets or collateral held by, under, or in connection with such a program or facility,

shall be kept confidential, upon the written request of the Chairman of the Board, in which case

such information shall be made available only to the Chairpersons or Ranking Members of the Committees described in subparagraph (C).

(E) If an entity to which a Federal reserve bank has provided a loan under this paragraph becomes a covered financial company, as defined in section 201 of the Dodd-Frank Wall Street Reform and Consumer Protection Act [12 U.S.C. 5381], at any time while such loan is outstanding, and the Federal reserve bank incurs a realized net loss on the loan, then the Federal reserve bank shall have a claim equal to the amount of the net realized loss against the covered entity, with the same priority as an obligation to the Secretary of the Treasury under section 210(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [12 U.S.C. 5390(b)].

(Dec. 23, 1913, ch. 6, §13 (pars.), 38 Stat. 263; Sept. 7, 1916, ch. 461, 39 Stat. 752; Mar. 4, 1923, ch. 252, title IV, §402, 42 Stat. 1478; July 21, 1932, ch. 520, §210, 47 Stat. 715; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §322, 49 Stat. 704, 714; Pub. L. 102-242, title IV, §473, Dec. 19, 1991, 105 Stat. 2386; Pub. L. 111-203, title XI, §1101(a), July 21, 2010, 124 Stat. 2113.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in the first par., 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.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in par. (3)(B)(ii), (iii), 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.

CODIFICATION

Section is comprised of the second par. and par. (3) of section 13 of act Dec. 23, 1913. Act Mar. 4, 1923, split the second par. of section 13, as amended in 1916 (39 Stat. 752), into two pars., the first of which constitutes the first par. of this section and the second of which constitutes section 344 of this title. Act July 21, 1932, added the second par. of this section which was designated to follow the second par. of section 13. Pub. L. 111-203, §1101(a)(1), designated the second par. as par. (3). For classification to this title of other pars. of section 13, see Codification note set out under section 342 of this title.

AMENDMENTS

2010—Pub. L. 111-203, §1101(a)(1)–(4), designated second par. as par. (3)(A), substituted "any participant in any program or facility with broad-based eligibility" for "any individual, partnership, or corporation", "bill of exchange," for "bill of exchange for an individual or a partnership or corporation", and "such participant in any program or facility with broad-based eligibility" for "such individual, partnership, or corporation".

Par. (3)(A). Pub. L. 111-203, §1101(a)(5), which directed substitution of "for any participant in any program or facility with broad-based eligibility" for "for individuals, partnerships, corporations", was executed by making the substitution for "for individuals, partnerships, or corporations", to reflect the probable intent of Congress.

Par. (3)(B) to (E). Pub. L. 111-203, §1101(a)(6), added subpars. (B) to (E).

1991—Pub. L. 102-242 struck out "of the kinds and maturities made eligible for discount for member banks under other provisions of this chapter" after first reference to "bills of exchange" in second par.

1935—Act Aug. 23, 1935, §322, substituted words immediately preceding proviso for "indorsed and otherwise secured to the satisfaction of the Federal reserve bank."

1932—Act July 21, 1932, added second par.

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.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

CONSTRUCTION OF DIV. N OF PUB. L. 116–260

Pub. L. 116–260, div. N, title X, §1006, Dec. 27, 2020, 134 Stat. 2147, provided that: "Except as expressly set forth in paragraphs (1) and (2) of subsection (c) of section 4029 of the CARES Act [15 U.S.C. 9063(c)(1), (2)], as added by this Act, nothing in this Act [div. N of Pub. L. 116–260, see Tables for classification] shall be construed to modify or limit the authority of the Board of Governors of the Federal Reserve System under section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)) as of the day before the date of enactment of the CARES Act (Public Law 116–136) [Mar. 27, 2020]."

REFERENCES TO THIRD UNDESIGNATED PARAGRAPH DEEMED TO BE REFERENCES TO PARAGRAPH (3)

Pub. L. 111–203, title XI, §1101(c), July 21, 2010, 124 Stat. 2115, provided that: "On and after the date of enactment of this Act [July 21, 2010], any reference in any provision of Federal law to the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) shall be deemed to be a reference to section 13(3) of the Federal Reserve Act [12 U.S.C. 343(3)], as so designated by this section."

¹ *So in original.*

§344. Discount or purchase of bills to finance agricultural shipments

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, and subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, any Federal reserve bank may discount or purchase bills of exchange payable at sight or on demand which grow out of the domestic shipment or the exportation of nonperishable, readily marketable agricultural and other staples and are secured by bills of lading or other shipping documents conveying or securing title to such staples: *Provided*, That all such bills of exchange shall be forwarded promptly for collection, and demand for payment shall be made with reasonable promptness after the arrival of such staples at their destination: *Provided further*, That no such bill shall in any event be held by or for the account of a Federal reserve bank for a period in excess of ninety days. In discounting such bills Federal reserve banks may compute the interest to be deducted on the basis of the estimated life of each bill and adjust the discount after payment of such bills to conform to the actual life thereof.

(Dec. 23, 1913, ch. 6, §13 (par.), as added Mar. 4, 1923, ch. 252, title IV, §402, 42 Stat. 1479; amended May 29, 1928, ch. 884, 45 Stat. 975; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the fourth par. of section 13 of act Dec. 23, 1913, as amended. The act of Mar. 4, 1923, split the second par. of section 13, as amended in 1916 (39 Stat. 752), into two pars., the first of which constitutes the first par. of section 343 of this title and the second as this section, making it the third par. of section 13. However, the third par. became the fourth par. when act July 21, 1932, added a new par. to follow the second par. For further details, see Codification note set out under section 343 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.

AMENDMENTS

1928—Act May 29, 1928, amended part of first sentence preceding proviso.

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.

§345. Rediscount of notes, drafts, and bills for member banks; limitation of amount

The aggregate of notes, drafts, and bills upon which any person, copartnership, association, or corporation is liable as maker, acceptor, indorser, drawer, or guarantor, rediscounted for any member bank, shall at no time exceed the amount for which such person, copartnership, association, or corporation may lawfully become liable to a national banking association under the terms of section 84 of this title: *Provided, however*, That nothing in this section shall be construed to change the character or class of paper now eligible for rediscount by Federal reserve banks.

(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; Apr. 12, 1930, ch. 140, 46 Stat. 162.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the fifth par. of section 13 of act Dec. 23, 1913, as amended. The fifth par. constituted the third par. of section 13 in 1916 (39 Stat. 752), became the fourth par. in 1923 (42 Stat. 1478), and became the fifth par. in 1932 (47 Stat. 715). For further details, see Codification notes set out 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.

AMENDMENTS

1930—Act Apr. 12, 1930, among other changes, inserted proviso.

§346. Discount of acceptances

Any Federal reserve bank may discount acceptances of the kinds hereinafter described, which have a maturity at the time of discount of not more than ninety days' sight, exclusive of days of grace, and which are indorsed by at least one member bank: *Provided*, That such acceptances if drawn for an agricultural purpose and secured at the time of acceptance by warehouse receipts or other such documents conveying or securing title covering readily marketable staples may be discounted with a maturity at the time of discount of not more than six months' sight exclusive of days of grace.

(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; Mar. 4, 1923, ch. 252, title IV, §403, 42 Stat. 1479.)

EDITORIAL NOTES

REFERENCES IN TEXT

Words "hereinafter described" are from the sixth par. of section 13 of the Federal Reserve Act, see Codification note below. Reference could be to acceptances described in the remaining paragraphs of section 13, which are contained in sections 82, 347, 347c, and 372 of this title, or to acceptances described in subsequent sections of the Federal Reserve Act, sections 14 et seq. of act Dec. 23, 1913.

CODIFICATION

Section is comprised of the sixth par. of section 13 of act Dec. 23, 1913, as amended. The sixth par. constituted the fourth par. of section 13 in 1916 (39 Stat. 752), became the fifth par. in 1923 (42 Stat. 1478), and became the sixth 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.

§347. Advances to member banks on their notes

Any Federal reserve bank may make advances for periods not exceeding fifteen days to its member banks on their promissory notes secured by the deposit or pledge of bonds, notes, certificates of indebtedness, or Treasury bills of the United States, or by the deposit or pledge of debentures or other such obligations of Federal intermediate credit banks which are eligible for purchase by Federal reserve banks under section 350 of this title, or by the deposit or pledge of bonds issued under the provisions of subsection (c) of section 1463 ¹ of this title; and any Federal reserve bank may make advances for periods not exceeding ninety days to its member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal reserve banks under the provisions of this chapter, or secured by such obligations as are eligible for purchase under section 355 of this title. All such advances shall be made at rates to be established by such Federal reserve banks, such rates to be subject to the review and determination of the Board of Governors of the Federal Reserve System. If any member bank to which any such advance has been made shall, during the life or continuance of such advance, and despite an official warning of the reserve bank of the district or of the Board of Governors of the Federal Reserve System to the contrary, increase its outstanding loans secured by collateral in the form of stocks, bonds, debentures, or other such obligations, or loans made to members of any organized stock exchange, investment house, or dealer in securities, upon any obligation, note, or bill, secured or unsecured, for the purpose of purchasing and/or carrying stocks, bonds, or other investment securities (except obligations of the United States) such advance shall be deemed immediately due and payable, and such member bank shall be ineligible as a borrower at the reserve bank of the district under the provisions of this section for such period as the Board of Governors of the Federal Reserve System shall determine: *Provided*, That no temporary carrying or clearance loans made solely for the purpose of facilitating the purchase or delivery of securities offered for public subscription shall be included in the loans referred to in this section.

(Dec. 23, 1913, ch. 6, §13 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 753; amended May 19, 1932, ch. 191, §6, 47 Stat. 160; May 12, 1933, ch. 25, title II, §28, 48 Stat. 46; June 16, 1933, ch. 89, §9, 48 Stat. 180; Jan. 31, 1934, ch. 7, §16(a), 48 Stat. 348; Apr. 27, 1934, ch. 168, §7(a), 48 Stat. 646; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 87-353, §3(c), Oct. 4, 1961, 75 Stat. 773; Pub. L. 90-505, §3(a), Sept. 21, 1968, 82 Stat. 856.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1463 of this title, referred to in text, was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 648.

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 the eighth par. of section 13 of act Dec. 23, 1913, as amended. The eighth par. constituted the sixth par. of section 13 in 1916 (39 Stat. 752, 753), became the seventh par. in 1923 (42 Stat. 1478), and became the eighth 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.

AMENDMENTS

1968—Pub. L. 90-505 added promissory notes of members banks secured by such obligations as are eligible for purchase under section 355 of this title to the list of types of promissory notes of member banks on which the Federal reserve bank may make advances for periods not exceeding 90 days.

1961—Pub. L. 87-353 struck out provision authorizing any Federal reserve bank to make advances to its member banks on their promissory notes secured by the deposit or pledge of Federal Farm Mortgage

Corporation bonds issued under the Federal Farm Mortgage Corporation Act.

1934—Act Apr. 27, 1934, inserted first phrase preceding the semicolon in first sentence.

Act Jan. 31, 1934, inserted second phrase preceding the semicolon in first sentence.

1933—Act June 16, 1933, amended section generally.

Act May 12, 1933, added Federal farm-loan bonds as security for advances.

1932—Act May 19, 1932, inserted clause in first sentence which begins "or by the deposit or pledge of debentures".

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.

¹ [*See References in Text note below.*](#)

§347a. Advances to member bank groups; inadequate amounts of eligible and acceptable assets; liability of individual banks in group; distribution of loans among banks of group; rate of interest; notes accepted for advances as collateral security for Federal reserve notes; foreign obligations as security for advances

Upon receiving the consent of not less than five members of the Board of Governors of the Federal Reserve System, any Federal reserve bank may make advances, in such amount as the board of directors of such Federal reserve bank may determine, to groups of five or more member banks within its district, a majority of them independently owned and controlled, upon their time or demand promissory notes, provided the bank or banks which receive the proceeds of such advances as herein provided have no adequate amounts of eligible and acceptable assets available to enable such bank or banks to obtain sufficient credit accommodations from the Federal reserve bank through rediscounts or advances other than as provided in section 347b ¹ of this title. The liability of the individual banks in each group must be limited to such proportion of the total amount advanced to such group as the deposit liability of the respective banks bears to the aggregate deposit liability of all banks in such group, but such advances may be made to a lesser number of such member banks if the aggregate amount of their deposit liability constitutes at least 10 per centum of the entire deposit liability of the member banks within such district. Such banks shall be authorized to distribute the proceeds of such loans to such of their number and in such amount as they may agree upon, but before so doing they shall require such recipient banks to deposit with a suitable trustee, representing the entire group, their individual notes made in favor of the group protected by such collateral security as may be agreed upon. Any Federal reserve bank making such advance shall charge interest or discount thereon at a rate not less than 1 per centum above its discount rate in effect at the time of making such advance. No such note upon which advances are made by a Federal reserve bank under this section shall be eligible under section 412 of this title as collateral security for Federal reserve notes.

No obligations of any foreign government, individual, partnership, association, or corporation organized under the laws thereof shall be eligible as collateral security for advances under this section.

Member banks are authorized to obligate themselves in accordance with the provisions of this section.

(Dec. 23, 1913, ch. 6, §10A, formerly §10(a), as added Feb. 27, 1932, ch. 58, §1, 47 Stat. 56; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §10A, Pub. L. 102-242, title I, §142(a)(1), Dec. 19, 1991, 105 Stat. 2279.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 347b of this title, referred to in first par., was in the original a reference to section 10(b), meaning section 10(b) of the Federal Reserve Act. Section 10(b) of that Act was renumbered section 10B by Pub. L. 102-242, title I, §142(a)(2), Dec. 19, 1991, 105 Stat. 2279, without a corresponding amendment to this section.

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.

¹ [*See References in Text note below.*](#)

§347b. Advances to individual member banks on time or demand notes; maturities; time notes secured by mortgage loans covering one-to-four family residences

(a) In general

Any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time or demand notes having maturities of not more than four months and which are secured to the satisfaction of such Federal Reserve bank.

Notwithstanding the foregoing, any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time notes having such maturities as the Board may prescribe and which are secured by mortgage loans covering a one-to-four family residence. Such advances shall bear interest at a rate equal to the lowest discount rate in effect at such Federal Reserve bank on the date of such note.

(b) Limitations on advances

(1) Limitation on extended periods

Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

(2) Viability exception

(A) In general

If—

- (i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or
- (ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

(B) Extensions of period

The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

(C) Authority to issue a certificate of viability may not be delegated

The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

(D) Extended advances subject to paragraph (3)

Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

- (i) such institution as critically undercapitalized under paragraph (3); and
- (ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

(3) Advances to critically undercapitalized depository institutions

(A) Liability for increased loss

Notwithstanding any other provision of this section, if—

- (i) in the case of any critically undercapitalized depository institution—

(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercapitalized depository institution; or

(II) any new advance is made to such institution under this section after the end of such period; and

(ii) after the end of that 5-day period, the Deposit Insurance Fund of the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

(B) Limitation on excess loss

The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

(C) Federal Reserve to pay obligation

The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

(D) Report

The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

(4) No obligation to make advances

A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this chapter to any depository institution.

(5) Definitions

(A) Appropriate Federal banking agency

The term "appropriate Federal banking agency" has the same meaning as in section 1813 of this title.

(B) Critically undercapitalized

The term "critically undercapitalized" has the same meaning as in section 1831o of this title.

(C) Depository institution

The term "depository institution" has the same meaning as in section 1813 of this title.

(D) Undercapitalized depository institution

The term "undercapitalized depository institution" means any depository institution which—

- (i) is undercapitalized, as defined in section 1831o of this title; or
- (ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

(E) Viable

A depository institution is "viable" if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

- (i) is not critically undercapitalized;
- (ii) is not expected to become critically undercapitalized; and
- (iii) is not expected to be placed in conservatorship or receivership.

(Dec. 23, 1913, ch. 6, §10B, formerly §10(b), as added Feb. 27, 1932, ch. 58, §2, 47 Stat. 56; amended Feb. 3, 1933, ch. 34, 47 Stat. 794; Mar. 9, 1933, ch. 1, title IV, §402, 48 Stat. 7; Aug. 23, 1935, ch. 614, title II, §204, 49 Stat. 705; Pub. L. 93–449, §5, Oct. 18, 1974, 88 Stat. 1368; Pub. L. 96–221, title I, §106, Mar. 31, 1980, 94 Stat. 140; renumbered §10B and amended Pub. L. 102–242, title I, §142(a)(2), (b), Dec. 19, 1991, 105 Stat. 2279; Pub. L. 104–208, div. A, title II, §2704(d)(9), Sept. 30, 1996, 110 Stat. 3009–489; Pub. L. 109–171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, §9(c), Feb. 15, 2006, 119 Stat. 3616.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(4), 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

2006—Subsec. (b)(3)(A)(ii). Pub. L. 109–173 substituted "the Deposit Insurance Fund of" for "any deposit insurance fund in".

Pub. L. 109–171 repealed Pub. L. 104–208, §2704(d)(9). See 1996 Amendment note below.

1996—Subsec. (b)(3)(A)(ii). Pub. L. 104–208, §2704(d)(9), which directed the amendment of cl. (ii) by substituting "the Deposit Insurance Fund of" for "any deposit insurance fund in", was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1991—Pub. L. 102–242, §142(b), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1980—Pub. L. 96–221 struck out second sentence of first par. relating to interest on notes under this section.

1974—Pub. L. 93–449 inserted provisions relating to advances on time notes secured by mortgage loans covering one-to-four family residences.

1935—Act Aug. 23, 1935, struck out provision prescribing termination date of section.

1933—Act Mar. 9, 1933, struck out proviso which extended applicability to member banks regardless of their capital, and empowered President to extend termination date one year beyond March 3, 1934.

Act Feb. 3, 1933, extended termination date from "March 3, 1933" to "March 3, 1934".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109–173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–242, title I, §142(d), Dec. 19, 1991, 105 Stat. 2281, provided that: "The amendment made by subsection (b) [amending this section] shall take effect at the end of the 2-year period beginning on the date of enactment of this Act [Dec. 19, 1991]."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96–221, set out as a note under section 248 of this title.

EXECUTIVE DOCUMENTS

EXPIRATION

Proclamation No. 2076, Feb. 16, 1934, 48 Stat. 1734, extended section to Mar. 3, 1935. See 1935 amendment note above.

§347c. Advances to individuals, partnerships, and corporations; security; interest rate

Subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe, any Federal reserve bank may make advances to any individual, partnership, or corporation on the promissory notes of such individual, partnership, or corporation secured by direct obligations of the United States or by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by any agency of the United States. Such advances shall be made for periods not exceeding 90 days and shall bear interest at rates fixed from time to time by the Federal reserve bank, subject to the review and determination of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §13 (par.), as added Mar. 9, 1933, ch. 1, title IV, §403, 48 Stat. 7; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 90–505, §3(b), Sept. 21, 1968, 82 Stat. 856.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the thirteenth par. of section 13 of act Dec. 23, 1913, as added by act Mar. 9, 1933. For additional details concerning the enactment and numbering of the first twelve and fourteenth pars. of section 13, see Codification notes set out under sections 92, 342 to 347, 347d, 361, 372, and 373 of this title.

AMENDMENTS

1968—Pub. L. 90–505 added promissory notes secured by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States to the list of types of promissory notes on which federal reserve banks may make advances to individuals, partnerships, and corporations.

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.

§347d. Transactions between Federal Reserve banks and branch or agency of foreign bank; matters considered

Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 3105 of this title. In exercising any such powers with respect to any such branch or agency, each Federal Reserve bank shall give due regard to account balances being maintained by such branch or agency with such Reserve bank and the proportion of the assets of such branch or agency being held as reserves under section 3105 of this title. For the purposes of this paragraph, the terms "branch", "agency", and "foreign bank" shall have the same meanings assigned to them in section 3101 of this title.

(Dec. 23, 1913, ch. 6, §13 (par.), as added Pub. L. 95-369, §7(b), Sept. 17, 1978, 92 Stat. 621.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the fourteenth (last) par. of section 13 of act Dec. 23, 1913, as added by act Sept. 17, 1978. For additional details concerning the enactment and numbering of the first thirteen pars. of section 13, see Codification notes set out under sections 92, 342 to 347, 347c, 361, 372, and 373 of this title.

PRIOR PROVISIONS

A prior section 347d, act Mar. 9, 1933, ch. 1, §404, as added Mar. 24, 1933, ch. 8, §1, 48 Stat. 20, which related to direct loans to State banks and trust companies, was omitted from the Code as terminated since by its own terms, it was effective for only one year following date of its enactment, Mar. 24, 1933.

§348. Discount of obligations given for agricultural purposes or based upon livestock; collateral security for Federal reserve notes

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, discount notes, drafts, and bills of exchange issued or drawn for an agricultural purpose, or based upon livestock, and having a maturity, at the time of discount, exclusive of days of grace, not exceeding nine months, and such notes, drafts, and bills of exchange may be offered as collateral security for the issuance of Federal reserve notes under the provisions of section 16 of this Act: *Provided*, That notes, drafts, and bills of exchange with maturities in excess of six months shall not be eligible as a basis for the issuance of Federal reserve notes unless secured by warehouse receipts or other such negotiable documents conveying or securing title to readily marketable staple agricultural products or by chattel mortgage upon livestock which is being fattened for market.

(Dec. 23, 1913, ch. 6, §13A (par.), formerly §13a, as added Mar. 4, 1923, ch. 252, title IV, §404, 42 Stat. 1479; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §13A, Pub. L. 102-242, title I, §142(e)(1), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 16 of this Act, referred to in text, means section 16 of act Dec. 23, 1913. For classification of section 16 to this title, see Codification note set out under section 411 of this title.

CODIFICATION

Section is comprised of first par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 2 to 5 of section 13A are set out as sections 349 to 352 of this title, respectively.

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.

§348a. Transactions with foreign banks; supervision of Board of Governors of the Federal Reserve System

The Board of Governors of the Federal Reserve System shall exercise special supervision over all relationships and transactions of any kind entered into by any Federal reserve bank with any foreign bank or banker, or with any group of foreign banks or bankers, and all such relationships and transactions shall be subject to such regulations, conditions, and limitations as the Board may prescribe. No officer or other representative of any Federal reserve bank shall conduct negotiations of any kind with the officers or representatives of any foreign bank or banker without first obtaining the permission of the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal Reserve System shall have the right, in its discretion, to be represented in any conference or negotiations by such representative or representatives as the Board may designate. A full report of all conferences or negotiations, and all understandings or agreements arrived at or transactions agreed upon, and all other material facts appertaining to such conferences or negotiations, shall be filed with the Board of Governors of the Federal Reserve System in writing by a duly authorized officer of each Federal reserve bank which shall have participated in such conferences or negotiations.

(Dec. 23, 1913, ch. 6, §14(g), as added June 16, 1933, ch. 89, §10, 48 Stat. 181; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

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.

§349. Rediscount for intermediate credit banks of obligations given for agricultural purposes; discount of notes made pursuant to section 1031

Any Federal reserve bank may, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, rediscount such notes, drafts, and bills mentioned in section 348 of this title for any Federal intermediate credit bank, except that no Federal reserve bank shall rediscount for a Federal intermediate credit bank any such note or obligation which bears the indorsement of a nonmember State bank or trust company which is eligible for membership in the Federal reserve system in accordance with subchapter VIII of this chapter. Any Federal reserve bank may also, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, discount notes payable to and bearing the indorsement of

any Federal intermediate credit bank covering loans or advances made by such bank pursuant to the provisions of section 1031 ¹ of this title which have maturities at the time of discount of not more than nine months, exclusive of days of grace, and which are secured by notes, drafts, or bills of exchange eligible for rediscount by Federal Reserve banks.

(Dec. 23, 1913, ch. 6, §13A (par.), formerly §13a, as added Mar. 4, 1923, ch. 252, title IV, §404, 42 Stat. 1479; amended May 19, 1932, ch. 191, §5, 47 Stat. 160; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §13A, Pub. L. 102–242, title I, §142(e)(1), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter VIII of this chapter, referred to in text, was in the original "section 9 of this Act", meaning section 9 of act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act. Section 9 of the act is classified generally to subchapter VIII (§321 et seq.) of this chapter.

Section 1031 of this title, referred to in text, was repealed by Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624. See section 2074 of this title.

CODIFICATION

Section is comprised of second par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 1, 3 to 5 of section 13A are set out as sections 348, 350 to 352 of this title, respectively.

AMENDMENTS

1932—Act May 19, 1932, inserted last sentence.

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.

¹ [*See References in Text note below.*](#)

§350. Purchase and sale of debentures and like obligations of intermediate credit banks and agricultural credit corporations

Any Federal reserve bank may also buy and sell debentures and other such obligations issued by a Federal intermediate credit bank or by a national agricultural credit corporation, but only to the same extent as and subject to the same limitations as those upon which it may buy and sell bonds issued under title I of the Federal Farm Loan Act.

(Dec. 23, 1913, ch. 6, §13A (par.), formerly §13a, as added Mar. 4, 1923, ch. 252, title IV, §404, 42 Stat. 1480; renumbered §13A, Pub. L. 102–242, title I, §142(e)(1), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title I of the Federal Farm Loan Act, referred to in text, is title I of act July 17, 1916, ch. 245, 39 Stat. 360. Title I was classified to chapter 7 (§641 et seq.) of this title, and was repealed by Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624.

CODIFICATION

Section is comprised of third par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 1, 2, 4 and 5 of section 13A are set out as sections 348, 349, 351 and 352 of this title, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

NATIONAL AGRICULTURAL CREDIT CORPORATION

Title II of the Agricultural Credits Act, act Mar. 4, 1923, title II, §§201–217, 42 Stat. 1461, authorized creation of national agricultural credit corporations, prior to repeal by Pub. L. 86–230, Sept. 18, 1959, §24, 73 Stat. 466. Prior to such repeal, act June 16, 1933, §77, 48 Stat. 292, had prohibited the creation, after June 16, 1933, of national agricultural credit corporations authorized to be formed under the Agricultural Credits Act.

§351. Obligations of cooperative marketing association as issued or drawn for agricultural purposes

Notes, drafts, bills of exchange, or acceptances issued or drawn by cooperative marketing associations composed of producers of agricultural products shall be deemed to have been issued or drawn for an agricultural purpose, within the meaning of sections 348 and 349 to 352 of this title, if the proceeds thereof have been or are to be advanced by such association to any members thereof for an agricultural purpose, or have been or are to be used by such association in making payments to any members thereof on account of agricultural products delivered by such members to the association, or if such proceeds have been or are to be used by such association to meet expenditures incurred or to be incurred by the association in connection with the grading, processing, packing, preparation for market, or marketing of any agricultural product handled by such association for any of its members: *Provided*, That the express enumeration in this section of certain classes of paper of cooperative marketing associations as eligible for rediscount shall not be construed as rendering ineligible any other class of paper of such associations which is now eligible for rediscount.

(Dec. 23, 1913, ch. 6, §13A (par.), formerly §13a, as added Mar. 4, 1923, ch. 252, title IV, §404, 42 Stat. 1480; renumbered §13A, Pub. L. 102–242, title I, §142(e)(1), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of fourth par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 1 to 3 and 5 of section 13A are set out as sections 348, 349, 350 and 352 of this title, respectively.

§352. Limitation on amount of obligations of certain maturities which may be discounted and rediscounted

The Board of Governors of the Federal Reserve System may, by regulation, limit to a percentage of the assets of a Federal reserve bank the amount of notes, drafts, acceptances, or bills having a maturity in excess of three months, but not exceeding six months, exclusive of days of grace, which may be discounted by such bank, and the amount of notes, drafts, bills, or acceptances having a maturity in excess of six months, but not exceeding nine months, which may be rediscounted by such bank.

(Dec. 23, 1913, ch. 6, §13A (par.), formerly §13a, as added Mar. 4, 1923, ch. 252, title IV, §404, 42 Stat. 1480; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §13A, Pub. L. 102–242, title I, §142(e)(1), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of fifth par. of section 13A, formerly section 13a, as added Mar. 4, 1923. Pars. 1 to 4 of section 13A are set out as sections 348, 349 to 351 of this title, respectively.

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.

§352a. Repealed. Pub. L. 85–699, title VI, §601, Aug. 21, 1958, 72 Stat. 697

Section, act Dec. 23, 1913, ch. 6, §13b, as added June 19, 1934, ch. 653, §1, 48 Stat. 1105; amended Aug. 23, 1935, ch. 614, title III, §323, 49 Stat. 714, authorized Federal Reserve Banks to make loans to industrial and commercial businesses and to discount or purchase industrial obligations from financial institutions, and created an industrial advisory committee.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 85–699, title VI, §601, Aug. 21, 1958, 72 Stat. 697, provided that the repeal of this section is effective one year after Aug. 21, 1958.

SAVINGS PROVISION

Pub. L. 85–699, title VI, §601, Aug. 21, 1958, 72 Stat. 697, provided that the repeal of this section shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under this section.

FUND FOR MANAGEMENT COUNSELING

Pub. L. 85–699, title VI, §602(a), (b), Aug. 21, 1958, 72 Stat. 698, required Federal Reserve banks to repay to the United States certain amounts paid to them under 12 U.S.C. 352a, such amounts to be covered into a special fund for grants under section 636 of Title 15, Commerce and Trade. See text of note set out under that section.

§353. Purchase and sale of cable transfers, acceptances and bills

Any Federal reserve bank may, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this chapter made eligible for rediscount, with or without the indorsement of a member bank.

(Dec. 23, 1913, ch. 6, §14 (par.), 38 Stat. 264; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

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 introductory provisions of section 14 of act Dec. 23, 1913. Subsecs. (a) to (g) of section 14 are set out as sections 354 to 359 and 348a of this title, respectively.

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.

§354. Transactions involving gold coin, bullion, and certificates

Every Federal reserve bank shall have power to deal in gold coin and bullion at home or abroad, to make loans thereon, exchange Federal reserve notes for gold, gold coin, or gold certificates, and to contract for loans of gold coin or bullion, giving therefor, when necessary, acceptable security, including the hypothecation of United States bonds or other securities which Federal reserve banks are authorized to hold.

(Dec. 23, 1913, ch. 6, §14(a), 38 Stat. 264.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of subsec. (a) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note set out under section 353 of this title.

§355. Purchase and sale of obligations of National, State, and municipal governments; open market operations; purchases and sales from or to United States; maximum aggregate amount of obligations acquired directly from or loaned directly to United States

Every Federal Reserve bank shall have power:

(1) To buy and sell, at home or abroad, bonds and notes of the United States, bonds issued under the provisions of subsection (c) of section 1463 ¹ of this title and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, and obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof, such purchases to be made in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System. Notwithstanding any other provision of this chapter, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market.

(2) To buy and sell in the open market, under the direction and regulations of the Federal Open Market Committee, any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States.

(Dec. 23, 1913, ch. 6, §14(b), 38 Stat. 264; Jan. 31, 1934, ch. 7, §16(b), 48 Stat. 348; Apr. 27, 1934, ch. 168, §7(b), 48 Stat. 646; Aug. 23, 1935, ch. 614, title II, §§203(a), 206(a), 49 Stat. 704, 706; Mar. 27, 1942, ch. 199, title IV, §401, 56 Stat. 180; Apr. 28, 1947, ch. 44, 61 Stat. 56; June 30, 1950, ch. 425, 64 Stat. 307; June 23, 1952, ch. 454, 66 Stat. 154; June 29, 1954, ch. 422, 68 Stat. 329; June 25, 1956, ch. 447, 70 Stat. 339; Pub. L. 85-476, June 30, 1958, 72 Stat. 261; Pub. L. 86-567, July 1, 1960, 74 Stat. 295; Pub. L. 87-353, §3(d), Oct. 4, 1961, 75 Stat. 773; Pub. L. 87-506, June 28, 1962, 76 Stat. 112; Pub. L. 88-344, June 30, 1964, 78 Stat. 235; Pub. L. 89-484, June 30, 1966, 80 Stat. 235; Pub. L. 89-597, §6, Sept. 21, 1966, 80 Stat. 825; Pub. L. 90-300, May 4, 1968, 82 Stat. 113; Pub. L. 91-360, July 31, 1970, 84 Stat. 668; Pub. L. 92-45, July 2, 1971, 85 Stat. 100; Pub. L. 93-93, Aug. 14, 1973, 87 Stat. 314; Pub. L. 93-495, title I, §109, Oct. 28, 1974, 88 Stat. 1505; Pub. L. 94-125, Nov. 12, 1975, 89 Stat. 678; Pub. L. 95-22, title II, §201, Apr. 19, 1977, 91 Stat. 49; Pub. L. 95-128, title II, §209, Oct. 12, 1977, 91 Stat. 1131; Pub. L. 95-154, Nov. 7, 1977, 91 Stat. 1256;

Pub. L. 95-534, Oct. 27, 1978, 92 Stat. 2032; Pub. L. 96-18, §§1, 3, June 8, 1979, 93 Stat. 35, 36; Pub. L. 96-221, title I, §105(b)(2), Mar. 31, 1980, 94 Stat. 140.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1463 of this title, referred to in par. (1), was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 648.

This chapter, referred to in par. (1), 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 subsec. (b) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note set out under section 353 of this title.

AMENDMENTS

1980—Par. (1). Pub. L. 96-221 inserted provisions relating to obligations of a foreign government or agency thereof.

1979—Par. (1). Pub. L. 96-18, §1(a), struck out proviso under which Federal Reserve banks had been allowed, until May 1, 1979, to buy and sell either in the open market or directly from or to the United States bonds, notes, or other obligations which were direct obligations of the United States or which were fully guaranteed by the United States and, after Apr. 30, 1979, had allowed such obligations to be purchased but only in the open market.

Pub. L. 96-18, §3(b), inserted provision that notwithstanding any other provision of this chapter, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market.

Par. (2). Pub. L. 96-18, §§1(b), 3(a), temporarily substituted "the United States or any agency of the United States, and to lend, under the direction and regulations of the Federal Open Market Committee, any such obligation to the Secretary of the Treasury" for "any agency of the United States". See Effective and Termination Dates of 1979 Amendment note set out below.

Pars. (3), (4). Pub. L. 96-18, §§1(c), 3(a), temporarily added pars. (3) and (4). See Effective and Termination Dates of 1979 Amendment note set out below.

1978—Par. (1). Pub. L. 95-534 substituted "May 1, 1979" for "May 1, 1978" and "April 30, 1979" for "April 30, 1978".

1977—Par. (1). Pub. L. 95-154 substituted "May 1, 1978" for "October 1, 1977" and "April 30, 1978" for "September 30, 1977".

Pub. L. 95-128 substituted "October 1, 1977" for "November 1, 1978" and "September 30, 1977" for "October 31, 1978".

Pub. L. 95-22 substituted "November 1, 1978" for "November 1, 1976" and "October 31, 1978" for "October 31, 1976".

1975—Par. (1). Pub. L. 94-125 substituted "November 1, 1976" for "November 1, 1975" and "October 31, 1976" for "October 31, 1975".

1974—Par. (1). Pub. L. 93-495 substituted "November 1, 1975" for "November 1, 1973" and "October 31, 1975" for "October 31, 1973".

1973—Par. (1). Pub. L. 93-93 substituted "November 1, 1973" for "July 1, 1973" and "October 31, 1973" for "June 30, 1973".

1971—Par. (1). Pub. L. 92-45 substituted "July 1, 1973" for "July 1, 1971" and "June 30, 1973" for "June 30, 1971".

1970—Par. (1). Pub. L. 91-360 substituted "July 1, 1971" for "July 1, 1970" and "June 30, 1971" for "June 30, 1970".

1968—Par. (1). Pub. L. 90-300 substituted "July 1, 1970" for "July 1, 1968" and "June 30, 1970" for "June 30, 1968".

1966—Pub. L. 89-597 designated existing provisions as par. (1) and added par. (2).

Pub. L. 89-484 substituted "July 1, 1968" for "July 1, 1966" and "June 30, 1968" for "June 30, 1966".

1964—Pub. L. 88-344 substituted "July 1, 1966" for "July 1, 1964", and "June 30, 1966" for "June 30,

1964".

1962—Pub. L. 87-506 substituted "July 1, 1964" for "July 1, 1962" and "June 30, 1964" for "June 30, 1962".

1961—Pub. L. 87-353 struck out provision authorizing every Federal reserve bank to buy and sell, at home or abroad, bonds of the Federal Farm Mortgage Corporation having maturities from date of purchase of not exceeding six months.

1960—Pub. L. 86-567 substituted "July 1, 1962" for "July 1, 1960" and "June 30, 1962" for "June 30, 1960".

1958—Pub. L. 85-476 substituted "July 1, 1960" for "July 1, 1958" and "June 30, 1960" for "June 30, 1958".

1956—Act June 25, 1956, substituted "July 1, 1958" for "July 1, 1956" and "June 30, 1958" for "June 30, 1958".

1954—Act June 29, 1954, substituted "July 1, 1956" for "July 1, 1954" and "June 30, 1956" for "June 30, 1954".

1952—Act June 23, 1952, substituted "July 1, 1954" for "July 1, 1952" and "June 30, 1954" for "June 30, 1952".

1950—Act June 30, 1950, substituted "July 1, 1952" for "July 1, 1950" and "June 30, 1952" for "June 30, 1950".

1947—Act Apr. 28, 1947, substituted proviso which allows the Federal Reserve banks to buy and sell either in the open market or directly from or to the United States any bonds, notes, or other obligations which are direct obligations of the United States or are fully guaranteed by the United States but limits the aggregate amount to be held at any one time to \$5,000,000,000, and after June 30, 1950 allows such obligation to be purchased, but only in the open market for former proviso.

1942—Act Mar. 27, 1942, amended proviso generally.

1935—Act Aug. 23, 1935, §206(a), inserted proviso.

1934—Act Apr. 27, 1934, authorized purchase and sale of bonds issued under subsec. (c) of [former] section 1463 of this title.

Act Jan. 31, 1934, authorized purchase and sale of bonds of Federal Farm Mortgage Corporation.

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.

EFFECTIVE DATE AND APPLICABILITY OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as an Effective Date of 1980 Amendment note under section 248 of this title.

Pub. L. 96-221, title I, §105(b)(2), Mar. 31, 1980, 94 Stat. 140, provided that the amendment made by section 105(b)(2) of Pub. L. 96-221 is applicable to 12 U.S.C. 355(1) as such section is in effect on the first day of the sixth month which begins after March 31, 1980, and as it will be in effect on June 1, 1981.

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Pub. L. 96-18, §3(a), June 8, 1979, 93 Stat. 36, provided that: "Except for the amendments made by subsection (a) of the first section of this Act [amending par. (1) of this section], and except for the amendment made by subsection (b) of this section [amending par. (1) of this section effective upon the expiration of the two-year period beginning on June 8, 1979], the amendments made by this Act [enacting section 359a of this title and pars. (3) and (4) of this section and amending par. (2) of this section] shall be effective only during the two-year period which begins on the date of enactment of this Act [June 8, 1979]. Upon the expiration of such period, each provision of law amended by this Act [enacting section 359a of this title and amending this section], except section 14(b)(1) of the Federal Reserve Act [par. (1) of this section], is amended to read as it did immediately prior to the enactment of this Act."

Pub. L. 96-18, §3(b), June 8, 1979, 93 Stat. 36, provided that the amendment made by that section is effective "Upon the expiration of the 2-year period which begins on the date of enactment of this Act [June 8, 1979]".

EXPIRATION OF 1942 AMENDMENT

Amendment of the proviso of this section by act Mar. 27, 1942, remained in force only until the date fixed by section 645 of the former Appendix to Title 50, War and National Defense, after which provisions in force before the amendment again became effective. Before the 1942 amendment, the proviso of this section read: "Provided, That any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market."

¹ [See References in Text note below.](#)

§356. Purchase of commercial paper from member banks and sale of same

Every Federal reserve bank shall have power to purchase from member banks and to sell, with or without its indorsement, bills of exchange arising out of commercial transactions, as hereinbefore defined.

(Dec. 23, 1913, ch. 6, §14(c), 38 Stat. 264.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of subsec. (c) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

§357. Establishment of rates of discount

Every Federal reserve bank shall have power to establish from time to time, subject to review and determination of the Board of Governors of the Federal Reserve System, rates of discount to be charged by the Federal reserve bank for each class of paper, which shall be fixed with a view of accommodating commerce and business, but each such bank shall establish such rates every fourteen days, or oftener if deemed necessary by the Board.

(Dec. 23, 1913, ch. 6, §14(d), 38 Stat. 264; Apr. 13, 1920, ch. 128, 41 Stat. 550; Mar. 4, 1923, ch. 252, title IV, §407, 42 Stat. 1480; Aug. 23, 1935, ch. 614, title II, §§203(a), 206(b), 49 Stat. 704, 706.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of subsec. (d) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, §206(b), inserted words at end of section beginning "but each such".

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.

§358. Establishment of accounts for purposes of open-market operations; correspondents and agencies

Every Federal reserve bank shall have power to establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Board of Governors of the Federal Reserve System and under regulations to be prescribed by said Board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Board of Governors of the Federal Reserve System, to open and maintain banking accounts for such foreign correspondents or agencies, or for foreign banks or bankers, or for foreign states as defined in section 632 of this title. Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Board of Governors of the Federal Reserve System, any other Federal reserve bank may, with the consent and approval of the Board of Governors of the Federal Reserve System, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board.

(Dec. 23, 1913, ch. 6, §14(e), 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 754; June 21, 1917, ch. 32, §6, 40 Stat. 235; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Apr. 7, 1941, ch. 43, §1, 55 Stat. 131.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of subsec. (e) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

AMENDMENTS

1941—Act Apr. 7, 1941, inserted in first sentence ", or for foreign banks or bankers, or for foreign states as defined in section 632 of this title" after "foreign correspondents or agencies".

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.

§359. Purchase and sale of acceptances of intermediate credit banks and agricultural credit corporations

Every Federal reserve bank shall have power to purchase and sell in the open market, either from or to domestic banks, firms, corporations, or individuals, acceptances of Federal intermediate credit banks and of national agricultural credit corporations, whenever the Board of Governors of the Federal Reserve System shall declare that the public interest so requires.

(Dec. 23, 1913, ch. 6, §14(f), as added Mar. 4, 1923, ch. 252, title IV, §405, 42 Stat. 1480; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of subsec. (f) of section 14 of act Dec. 23, 1913, as added Mar. 4, 1923. For

classification to this title of remainder of section 14, see Codification note under section 353 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.

NATIONAL AGRICULTURAL CREDIT CORPORATION

Title II of the Agricultural Credits Act, act Mar. 4, 1923, title II, §§201–217, 42 Stat. 1461, authorized creation of national agricultural credit corporations, prior to repeal by Pub. L. 86–230, Sept. 8, 1959, §24, 73 Stat. 466. Prior to such repeal, act June 16, 1933, §77, 48 Stat. 292, had prohibited the creation, after June 16, 1933, of national agricultural credit corporations authorized to be formed under the Agricultural Credits Act.

§359a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, §14(h), as added June 8, 1979, Pub. L. 96–18, §2, 93 Stat. 35, which authorized the Secretary of the Treasury to borrow and sell in open market, and required the repurchase and return of obligations to Federal Reserve Banks, was effective only during the two-year period that began June 8, 1979, as provided by section 3(a) of Pub. L. 96–18.

§360. Receiving checks and drafts on deposit at par; charges for collections, exchange, and clearances

Every Federal reserve bank shall receive on deposit at par from depository institutions or from Federal reserve banks checks and other items, including negotiable orders of withdrawal and share drafts and drafts drawn upon any of its depositors, and when remitted by a Federal reserve bank, checks and other items, including negotiable orders of withdrawal and share drafts and drafts drawn by any depositor in any other Federal reserve bank or depository institution upon funds to the credit of said depositor in said reserve bank or depository institution. Nothing herein contained shall be construed as prohibiting a depository institution from charging its actual expense incurred in collecting and remitting funds, or for exchange sold to its patrons. The Board of Governors of the Federal Reserve System shall, by rule, fix the charges to be collected by the depository institutions from its patrons whose checks and other items, including negotiable orders of withdrawal and share drafts are cleared through the Federal reserve bank and the charge which may be imposed for the service of clearing or collection rendered by the Federal reserve bank.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 265; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 96–221, title I, §105(c), Mar. 31, 1980, 94 Stat. 140.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the twelfth par. (formerly the thirteenth par.) of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1980—Pub. L. 96–221, which directed amendment of "[t]he thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 360)" by substituting "depository institutions" for "member banks" wherever

appearing and "depository institution" for "member bank" wherever appearing and by inserting "and other items, including negotiable orders of withdrawal and share drafts" after "checks" wherever appearing, was executed to this section to reflect the probable intent of Congress.

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

§361. Bills receivable, bills of exchange, acceptances; regulations by Board of Governors

The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange, and of acceptances authorized by this chapter, shall be subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §13 (par.), 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 753; Aug. 23, 1935, ch. 614, §203(a), 49 Stat. 704.)

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 based on the tenth par. of section 13 of act Dec. 23, 1913, as amended. The tenth par. constituted the eighth par. of section 13 in 1916 (39 Stat. 753), became the ninth par. in 1923 (42 Stat. 1478), and became the tenth 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.

§§362 to 364. Omitted

EDITORIAL NOTES

CODIFICATION

Section 362, 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 deposit of withheld taxes in Government depositories, 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 acts:

May 28, 1954, ch. 242, title I, 68 Stat. 144.

June 18, 1953, ch. 132, title I, 67 Stat. 67.

June 30, 1952, ch. 523, title I, 66 Stat. 289.

Aug. 11, 1951, ch. 301, title I, 65 Stat. 182.

Sept. 6, 1950, ch. 896, Ch. IV, title I, 64 Stat. 634.

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 66²/₃ 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 $\frac{662}{3}$ 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 $\frac{662}{3}$ 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 $\frac{62}{3}$ 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 6²/₃ 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 662/3 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 662/3 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 relationship 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.

(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, depository, 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."

¹ *So in original. Probably should read "subsection (a)(4)."*

§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.

(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.

¹ So in original. Probably should be "subsection".

§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 1831o(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.

¹ *So in original. Probably should be followed by "in".*

§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, partnership, 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, underwriting,

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.)

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

Words "of the Philippine Islands, or" after "No public funds" were deleted on authority of 1946 Proc. No. 2695, which granted independence to the Philippine Islands pursuant to section 1394 of Title 22. Proc. No. 2695 is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

Section is comprised of second par. of section 15 of act Dec. 23, 1913. Par. 1 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 391 and 393, respectively, of this title.

§393. Federal reserve banks as depositaries for Farm Credit System

The Federal Reserve banks are authorized to act as depositaries for and fiscal agents of any Federal land bank, Federal intermediate credit bank, bank for cooperatives, or other institutions of the Farm Credit System.

(Dec. 23, 1913, ch. 6, §15 (par.), as added Mar. 4, 1923, ch. 252, title IV, §406, 42 Stat. 1480; amended Pub. L. 92-181, title V, §5.41, formerly §5.27(b), Dec. 10, 1971, 85 Stat. 625; renumbered §5.41(b), Pub. L. 99-205, title II, §205(a)(2), Dec. 23, 1985, 99 Stat. 1703; renumbered §5.41, Pub. L. 100-233, title VIII, §805(ff)(2), Jan. 6, 1988, 101 Stat. 1717.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of third par. of section 15 of act Dec. 23, 1913, as added Mar. 4, 1923. Pars. 1 and 2 of section 15 are classified to sections 391 and 392, respectively, of this title.

AMENDMENTS

1971—Pub. L. 92-181 substituted "Federal land bank, Federal intermediate credit bank, bank for cooperatives, or other institutions of the Farm Credit System" for "national agricultural credit corporation or Federal intermediate credit bank".

§394. Federal reserve banks as depositaries for and fiscal agents of Home Owners' Loan Corporation

The Federal Reserve banks are authorized, with the approval of the Secretary of the Treasury, to act as depositaries, custodians, and fiscal agents for the Home Owners' Loan Corporation.

(Apr. 27, 1934, ch. 168, §8, 48 Stat. 646.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

ABOLITION OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of Home Owners' Loan Corporation, referred to in this section, by act June 30, 1953, ch. 170, §21, 67 Stat. 126, see note set out under section 1463 of this title.

§395. Federal reserve banks as depositaries, custodians and fiscal agents for Commodity Credit Corporation

The Federal Reserve banks are authorized to act as depositaries, custodians, and fiscal agents for the Commodity Credit Corporation.

(July 16, 1943, ch. 241, §3, 57 Stat. 566.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation transferred to Secretary of Agriculture by Reorg. Plan No. 3 of 1946, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations, Advisory Board of Commodity Credit Corporation, and Farm Credit Administration or any

agency, officer or entity of, under, or subject to supervision of Administration were excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER XII—FEDERAL RESERVE NOTES

§411. Issuance to reserve banks; nature of obligation; redemption

Federal reserve notes, to be issued at the discretion of the Board of Governors of the Federal Reserve System for the purpose of making advances to Federal reserve banks through the Federal reserve agents as hereinafter set forth and for no other purpose, are authorized. The said notes shall be obligations of the United States and shall be receivable by all national and member banks and Federal reserve banks and for all taxes, customs, and other public dues. They shall be redeemed in lawful money on demand at the Treasury Department of the United States, in the city of Washington, District of Columbia, or at any Federal Reserve bank.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 265; Jan. 30, 1934, ch. 6, §2(b)(1), 48 Stat. 337; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

REFERENCES IN TEXT

Phrase "hereinafter set forth" is from section 16 of the Federal Reserve Act, act Dec. 23, 1913. Reference probably means as set forth in sections 17 et seq. of the Federal Reserve Act. For classification of these sections to the Code, see Tables.

CODIFICATION

Section is comprised of first par. of section 16 of act Dec. 23, 1913. Pars. 2 to 5, 6 (formerly 7), 7 to 10 (formerly 8 to 11, respectively), 12 (formerly 13), 13 (formerly 14), and 14 to 16 (formerly 15, 16, and 18, respectively) of section 16 of act Dec. 23, 1913, are classified to sections 412 to 415, 416, 418 to 421, 360, 248–1, and 467, respectively, of this title.

Former pars. 6 and 17 of section 16 of act Dec. 23, 1913, formerly classified to sections 415 and 467, respectively, of this title, were repealed by Pub. L. 90–269, §§5, 7, Mar. 18, 1968, 82 Stat. 50.

Par. 11 (formerly 12) of section 16 of act Dec. 23, 1913, formerly classified to section 422 of this title, was superseded by act June 26, 1934, ch. 756, §1(a), (b)(3), 48 Stat. 1225.

AMENDMENTS

1934—Act Jan. 30, 1934, struck out from last sentence provision permitting redemption in gold.

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.

§412. Application for notes; collateral required

Any Federal Reserve bank may make application to the local Federal Reserve agent for such amount of the Federal Reserve notes hereinbefore provided for as it may require. Such application shall be accompanied with a tender to the local Federal Reserve agent of collateral in amount equal to the sum of the Federal Reserve notes thus applied for and issued pursuant to such application. The collateral security thus offered shall be notes, drafts, bills of exchange, or acceptances acquired under

section 92, 342 to 348, 349 to 352, 361, 372, or 373 of this title, or bills of exchange endorsed by a member bank of any Federal Reserve district and purchased under the provisions of sections 348a and 353 to 359 of this title, or bankers' acceptances purchased under the provisions of said sections 348a and 353 to 359 of this title, or gold certificates, or Special Drawing Right certificates, or any obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States or any agency thereof, or assets that Federal Reserve banks may purchase or hold under sections 348a and 353 to 359 of this title or any other asset of a Federal Reserve bank. In no event shall such collateral security be less than the amount of Federal Reserve notes applied for. The Federal Reserve agent shall each day notify the Board of Governors of the Federal Reserve System of all issues and withdrawals of Federal Reserve notes to and by the Federal Reserve bank to which he is accredited. The said Board of Governors of the Federal Reserve System may at any time call upon a Federal Reserve bank for additional security to protect the Federal Reserve notes issued to it. Collateral shall not be required for Federal Reserve notes which are held in the vaults of, or are otherwise held by or on behalf of, Federal Reserve banks.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 265; Sept. 7, 1916, ch. 461, 39 Stat. 754; June 21, 1917, ch. 32, §7, 40 Stat. 236; Feb. 27, 1932, ch. 58, §3, 47 Stat. 57; Feb. 3, 1933, ch. 34, 47 Stat. 794; Jan. 30, 1934, ch. 6, §2(b)(2), 48 Stat. 338; Mar. 6, 1934, ch. 47, 48 Stat. 398; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Mar. 1, 1937, ch. 20, 50 Stat. 23; June 30, 1939, ch. 256, 53 Stat. 991; June 30, 1941, ch. 264, 55 Stat. 395; May 25, 1943, ch. 102, 57 Stat. 85; June 12, 1945, ch. 186, §2, 59 Stat. 237; Pub. L. 90-349, §5(a), June 19, 1968, 82 Stat. 189; Pub. L. 95-630, title I, §113, Nov. 10, 1978, 92 Stat. 3671; Pub. L. 96-221, title I, §105(b)(1), Mar. 31, 1980, 94 Stat. 140; Pub. L. 106-122, Dec. 6, 1999, 113 Stat. 1638; Pub. L. 108-100, §19(d), Oct. 28, 2003, 117 Stat. 1193.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of second par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

2003—Pub. L. 108-100 inserted "or any other asset of a Federal Reserve bank" before period at end of third sentence and ", or are otherwise held by or on behalf of," after "in the vaults of" in last sentence.

1999—Pub. L. 106-122 substituted "acceptances acquired under section 92, 342 to 348, 349 to 352, 361, 372, or 373 of this title" for "acceptances acquired under the provisions of sections 92, 342 to 347, 347c, 347d, 361, 372, and 373 of this title".

1980—Pub. L. 96-221 inserted provisions relating to purchase, etc., of assets by Federal Reserve banks, and eliminating collateral requirement for Federal Reserve notes held in Federal Reserve bank vaults.

1978—Pub. L. 95-630 substituted "any obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States or any agency thereof" of "direct obligations of the United States".

1968—Pub. L. 90-349 added Special Drawing Right certificates to the types of allowable collateral security which may be tendered for Federal Reserve notes.

1945—Act June 12, 1945, substituted ", or direct obligations of the United States." for proviso after "gold certificates" in first sentence which limited period during which direct obligations of the United States could be accepted as collateral security.

1943—Act May 25, 1943, substituted "June 30, 1945" for "June 30, 1943," in proviso.

1941—Act June 30, 1941, substituted "June 30, 1943" for "June 30, 1941" in proviso.

1939—Act June 30, 1939, substituted "June 30, 1941" for "June 30, 1939" in proviso.

1937—Act Mar. 1, 1937, extended until June 30, 1939, period within which direct obligations of the United States may be accepted as collateral security under this section, and struck out provision authorizing President to extend period.

1934—Act Mar. 6, 1934, amended proviso and two sentences immediately following.

Act Jan. 30, 1934, amended portion of third sentence before proviso.

1933—Act Feb. 3, 1933, substituted "March 3, 1934" for "March 3, 1933" wherever appearing.

1932—Act Feb. 27, 1932, inserted proviso and two sentences immediately following.

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96-221, set out as a note under section 248 of this title.

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.

UNITED STATES OBLIGATIONS AS COLLATERAL; EXTENSION OF PERIOD

The period within which direct obligations of the United States could be accepted as collateral security under this section was extended to Mar. 3, 1937, by Proclamation No. 2117, of Feb. 14, 1935, 49 Stat. 3437; extended to June 30, 1939, by act Mar. 1, 1937; extended to June 30, 1941, by act June 30, 1939; extended to June 30, 1943, by act June 30, 1941; and extended to June 30, 1945, by act May 25, 1943. Act June 12, 1945, amended section to remove the time limitation.

§413. Distinctive letter and serial number of notes; cancellation of notes unfit for circulation; accounting; apportionment of credit among Federal Reserve banks

Federal Reserve notes shall bear upon their faces a distinctive letter and serial number which shall be assigned by the Board of Governors of the Federal Reserve System to each Federal Reserve bank. Federal Reserve notes unfit for circulation shall be canceled, destroyed, and accounted for under procedures prescribed and at locations designated by the Secretary of the Treasury. Upon destruction of such notes, credit with respect thereto shall be apportioned among the twelve Federal Reserve banks as determined by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 266; June 21, 1917, ch. 32, §7, 40 Stat. 236; Jan. 30, 1934, ch. 6, §2(b)(3), (4), 48 Stat. 338; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; June 12, 1945, ch. 186, §1(a), 59 Stat. 237; July 19, 1954, ch. 547, 68 Stat. 495; Pub. L. 89-3, §1, Mar. 3, 1965, 79 Stat. 5; Pub. L. 89-427, §3, May 20, 1966, 80 Stat. 161; Pub. L. 90-269, §3, Mar. 18, 1968, 82 Stat. 50.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of third par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-269 substituted requirement that Federal Reserve notes bear upon their faces a distinctive letter and serial number which shall be assigned by the Board of Governors to each Federal Reserve bank for former requirement that each Federal Reserve bank maintain reserves in gold certificates of not less than 25 percent against its Federal Reserve notes in actual circulation and former provisions respecting redemption by the Treasury of Federal Reserve notes.

1966—Pub. L. 89-427 substituted provisions that Federal Reserve notes unfit for circulation be canceled, destroyed, and accounted for under procedures prescribed and at locations designated by the Secretary of the Treasury and that credit with respect to the destruction of the notes be apportioned among the twelve Federal

Reserve banks as determined by the Board of Governors of the Federal Reserve System for provisions that Federal Reserve notes unfit for circulation be returned by the Federal Reserve agents to the Comptroller of the Currency for cancellation and destruction.

1965—Pub. L. 89-3 struck out requirement that each Federal Reserve bank maintain reserves in gold certificates against deposit liabilities.

1954—Act July 19, 1954, which directed striking out "Whenever Federal reserve notes issued through one Federal Reserve bank shall be received by another Federal Reserve bank, they shall be promptly returned for credit or redemption to the Federal Reserve bank through which they were originally issued or, upon direction of such Federal Reserve bank, they shall be forwarded direct to the Treasurer of the United States to be retired. No Federal Reserve bank shall pay out notes issued through another under penalty of a tax of 10 per centum upon the face value of notes so paid out.", was executed, to reflect the probable intent of Congress, by striking out the third and fourth sentences, which read as follows: "Whenever Federal reserve notes issued through one Federal reserve bank shall be received by another Federal reserve bank, they shall be promptly returned for credit or redemption to the Federal reserve bank through which they were originally issued or, upon direction of such Federal reserve bank, they shall be forwarded direct to the Treasurer of the United States to be retired. No Federal reserve bank shall pay out notes issued through another under penalty of a tax of ten per centum upon the face value of notes so paid out."

1945—Act June 12, 1945, amended first sentence generally by striking out "or lawful money" after "reserves in gold certificates", substituting "25 per centum" for "35 per centum" and "40 per centum", respectively.

1934—Act Jan. 30, 1934, amended first, fifth, and sixth sentences.

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.

§414. Authority of Board of Governors respecting issuance of notes; interest; lien

The Board of Governors of the Federal Reserve System shall have the right, acting through the Federal Reserve agent, to grant in whole or in part, or to reject entirely the application of any Federal Reserve bank for Federal Reserve notes; but to the extent that such application may be granted the Board of Governors of the Federal Reserve System shall, through its local Federal Reserve agent, supply Federal Reserve notes to the banks so applying, and such bank shall be charged with the amount of the notes issued to it and shall pay such rate of interest as may be established by the Board of Governors of the Federal Reserve System on only that amount of such notes which equals the total amount of its outstanding Federal Reserve notes less the amount of gold certificates held by the Federal Reserve agent as collateral security. Federal Reserve notes issued to any such bank shall, upon delivery, together with such notes of such Federal Reserve bank as may be issued under subchapter XIII ¹ of this chapter upon security of United States 2 per centum Government bonds, become a first and paramount lien on all the assets of such bank.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 266; June 21, 1917, ch. 32, §7, 40 Stat. 237; Jan. 30, 1934, ch. 6, §2(b)(5), 48 Stat. 338; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; June 12, 1945, ch. 186, §1(b), 59 Stat. 237; Pub. L. 90-269, §4, Mar. 18, 1968, 82 Stat. 50.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter XIII of this chapter, referred to in text, was in the original "section 18 of this Act", meaning section 18 of act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act. Section 18 of the act was classified generally to subchapter XIII (§441 et seq.) of this chapter.

CODIFICATION

Section is comprised of fourth par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-269 repealed first sentence provisions that Board of Governors require each Federal Reserve bank to maintain on deposit in the Treasury a sum in gold certificates sufficient, in the judgment of the Secretary of the Treasury, for redemption of Federal Reserve notes issued to such bank, but not less than 5 percent of total amount of notes issued less amount of gold certificates held by the Federal Reserve agent as collateral security, and counting and including such deposit of gold certificates as part of the 25 percent reserve formerly required by section 413 of this title to be maintained against Federal Reserve notes in actual circulation and substituted in the first, formerly second sentence, "Board of Governors of the Federal Reserve System" for "Board".

1945—Act June 12, 1945, substituted in first sentence "25 per centum reserve required by section 413 of this title to be maintained against Federal Reserve notes in actual circulation" for "40 per centum reserve required by section 413 of this title".

1934—Act Jan. 30, 1934, amended first sentence.

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.

¹ See References in Text note below.

§415. Reduction of liability for outstanding notes by depositing notes and collateral and payment of notes of series prior to 1928; reissue of deposited notes

Any Federal Reserve bank may at any time reduce its liability for outstanding Federal Reserve notes by depositing with the Federal Reserve agent its Federal Reserve notes, gold certificates, Special Drawing Right certificates, or lawful money of the United States. Federal Reserve notes so deposited shall not be reissued, except upon compliance with the conditions of an original issue. The liability of a Federal Reserve bank with respect to its outstanding Federal Reserve notes shall be reduced by an amount paid by such bank to the Secretary of the Treasury under section 4 of the Old Series Currency Adjustment Act.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 267; June 21, 1917, ch. 32, §7, 40 Stat. 237; Jan. 30, 1934, ch. 6, §2(b)(5), 48 Stat. 339; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 87-66, §8(a), June 30, 1961, 75 Stat. 147; Pub. L. 90-269, §5, Mar. 18, 1968, 82 Stat. 50; Pub. L. 90-349, §5(b), June 19, 1968, 82 Stat. 189.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4 of the Old Series Currency Adjustment Act, referred to in text, which was classified to section 913 of former Title 31, was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

CODIFICATION

Section is comprised of the fifth par. of section 16 of act Dec. 23, 1913. Section was formerly comprised of the fifth and sixth pars. of section 16 of act Dec. 23, 1913, before repeal of the sixth par. by Pub. L. 90-269, see 1968 Amendment note below. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90–349 added Special Drawing Right certificates to the types of deposits which Federal Reserve banks may use in reducing their liability for outstanding Federal Reserve notes.

Pub. L. 90–269 struck out second par. (sixth par. of section 16 of Act Dec. 23, 1913), which read as follows: "The Federal Reserve agent shall hold such gold certificates or lawful money available exclusively for exchange for the outstanding Federal Reserve notes when offered by the Reserve bank of which he is a director. Upon the request of the Secretary of the Treasury the Board of Governors of the Federal Reserve System shall require the Federal Reserve agent to transmit to the Treasurer of the United States so much of the gold certificates held by him as collateral security for Federal Reserve notes as may be required for the exclusive purpose of the redemption of such Federal Reserve notes, but such gold certificates when deposited with the Treasurer shall be counted and considered as if collateral security on deposit with the Federal Reserve agent."

1961—Pub. L. 87–66 provided for reduction of liability for outstanding notes by payment of notes of series prior to 1928.

1934—Act Jan. 30, 1934, struck out "gold" wherever it appeared before "gold certificates," and inserted "certificates" after "gold" wherever latter stood alone.

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.

§416. Withdrawal of collateral deposited to protect notes and substitution of other collateral; retirement of notes; payment of notes of series prior to 1928; recovery of collateral; reissue of deposited notes

Any Federal Reserve bank may at its discretion withdraw collateral deposited with the local Federal Reserve agent for the protection of its Federal Reserve notes issued to it, and shall at the same time substitute therefor other collateral of equal amount with the approval of the Federal Reserve agent under regulations to be prescribed by the Board of Governors of the Federal Reserve System. Any Federal Reserve bank may retire any of its Federal Reserve notes by depositing them with the Federal Reserve agent or with the Treasurer of the United States, and such Federal Reserve bank shall thereupon be entitled to receive back the collateral deposited with the Federal Reserve agent for the security of such notes. Any Federal Reserve bank shall further be entitled to receive back the collateral deposited with the Federal Reserve agent for the security of any notes with respect to which such bank has made payment to the Secretary of the Treasury under section 4 of the Old Series Currency Adjustment Act. Federal Reserve notes so deposited shall not be reissued except upon compliance with the conditions of an original issue.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 267; June 21, 1917, ch. 32, §7, 40 Stat. 237; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 87–66, §8(b), June 30, 1961, 75 Stat. 147; Pub. L. 90–269, §6, Mar. 18, 1968, 82 Stat. 50.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4 of the Old Series Currency Adjustment Act, referred to in text, which was classified to section 913 of former Title 31, was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

CODIFICATION

Section is comprised of the sixth par. (formerly the seventh par.) of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90–269 repealed fourth sentence which provided that Federal Reserve banks shall not be required to maintain the reserve or the redemption fund against Federal Reserve notes which have been retired, or as to which payment has been made to the Secretary of the Treasury under section 4 of the Old Series Currency Adjustment Act, on notes of series prior to 1928.

1961—Pub. L. 87–66 provided for recovery of collateral upon payment of notes of series prior to 1928 and removed requirement of reserve or redemption fund for such notes.

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

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

§417. Custody and safe-keeping of notes issued to and collateral deposited with Reserve agent

All Federal Reserve notes and all gold certificates, Special Drawing Right certificates, and lawful money issued to or deposited with any Federal Reserve agent under the provisions of the Federal Reserve Act shall hereafter be held for such agent, under such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, in the joint custody of himself and the Federal Reserve bank to which he is accredited. Such agent and such Federal Reserve bank shall be jointly liable for the safe-keeping of such Federal Reserve notes, gold certificates, Special Drawing Right certificates, and lawful money. Nothing herein contained, however, shall be construed to prohibit a Federal Reserve agent from depositing gold certificates and Special Drawing Right certificates with the Board of Governors of the Federal Reserve System, to be held by such Board subject to his order, or with the Treasurer of the United States for the purposes authorized by law.

(June 21, 1917, ch. 32, §7 (par.), 40 Stat. 238; Jan. 30, 1934, ch. 6, §2(b)(6), 48 Stat. 339; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 90–349, §5(c), June 19, 1968, 82 Stat. 189.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Reserve Act, referred to in text, is act Dec. 23, 1913, ch. 6, 38 Stat. 251. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

Hereafter, referred to in text, probably means on and after June 21, 1917.

CODIFICATION

Section is comprised of last par. of section 7 of act June 21, 1917. The preceding pars. of section 7 amended pars. two, three, four, five, six, and seven of section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90–349, which directed amendment of "[t]he seventh paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 417)" by inserting ", Special Drawing Right certificates," after "gold certificates" in the first sentence, "Special Drawing Right certificates," after "gold certificates," in the second sentence, and "and Special Drawing Right certificates" after "gold certificates" in the third sentence, was executed by making the insertions in this section, to reflect the probable intent of Congress.

1934—Act Jan. 30, 1934, which directed general amendment of the eighth par. of section 16 of the Federal Reserve Act, was executed to this section, to reflect the probable intent of Congress. Prior to amendment, text read as follows: "All Federal reserve notes and all gold, gold certificates, and lawful money issued to or deposited with any Federal reserve agent under the provisions of the Federal reserve Act shall hereafter be held for such agent, under such rules and regulations as the Federal Reserve Board may prescribe, in the joint custody of himself and the Federal reserve bank to which he is accredited. Such agent and such Federal reserve bank shall be jointly liable for the safe-keeping of such Federal reserve notes, gold, gold certificates, and lawful money. Nothing herein contained, however, shall be construed to prohibit a Federal reserve agent from depositing gold or gold certificates with the Federal Reserve Board, to be held by such board subject to his order, or with the Treasurer of the United States for the purposes authorized by law."

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

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

§418. Printing of notes; denomination and form

In order to furnish suitable notes for circulation as Federal reserve notes, the Secretary of the Treasury shall cause plates and dies to be engraved in the best manner to guard against counterfeits and fraudulent alterations, and shall have printed therefrom and numbered such quantities of such notes of the denominations of \$1, \$2, \$5, \$10, \$20, \$50, \$100, \$500, \$1,000, \$5,000, \$10,000 as may be required to supply the Federal Reserve banks. Such notes shall be in form and tenor as directed by the Secretary of the Treasury under the provisions of this chapter and shall bear the distinctive numbers of the several Federal reserve banks through which they are issued.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 267; Sept. 26, 1918, ch. 177, §3, 40 Stat. 969; Pub. L. 88–36, title I, §3, June 4, 1963, 77 Stat. 54; Pub. L. 103–325, title VI, §602(g)(3), Sept. 23, 1994, 108 Stat. 2293.)

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 the seventh par. (formerly the eighth par.) of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1994—Pub. L. 103–325, which directed amendment of "[t]he 1st sentence of the 8th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 418)" by substituting "the Secretary of the Treasury shall" for "the Comptroller of the Currency shall under the direction of the Secretary of the Treasury," was executed by making the substitution in this section for "the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury," to reflect the probable intent of Congress.

1963—Pub. L. 88–36, which directed amendment of "[t]he first sentence of the ninth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 418)" by inserting "\$1, \$2," after "notes of the denominations of",

was executed by making the insertion in this section, to reflect the probable intent of Congress.

1918—Act Sept. 26, 1918, which directed general amendment of "the ninth paragraph of section sixteen of the Federal reserve Act, as amended by the Acts approved September seventh, nineteen hundred and sixteen, and June twenty-first, nineteen hundred and seventeen," was executed to the eighth par. of section 16 of act Dec. 23, 1913 (now classified to this section), to reflect the probable intent of Congress. Prior to amendment, text read as follows: "In order to furnish suitable notes for circulation as Federal reserve notes, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved in the best manner to guard against counterfeits and fraudulent alterations, and shall have printed therefrom and numbered such quantities of such notes of the denominations of \$5, \$10, \$20, \$50, \$100, as may be required to supply the Federal reserve banks. Such notes shall be in form and tenor as directed by the Secretary of the Treasury under the provisions of this Act and shall bear the distinctive numbers of the several Federal reserve banks through which they are issued."

§419. Delivery of notes prior to delivery to banks

When such notes have been prepared, the notes shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this chapter.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 267; May 29, 1920, ch. 214, §1, 41 Stat. 654; Pub. L. 103–325, title VI, §602(g)(4), Sept. 23, 1994, 108 Stat. 2293.)

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, as amended, 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 the eighth par. (formerly the ninth par.) of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

On authority of act May 29, 1920, which abolished offices of Assistant Treasurers and distributed their functions, "designated depository" substituted for "subtreasury" in 1926 ed. of the Code.

AMENDMENTS

1994—Pub. L. 103–325, which directed general amendment of "[t]he 9th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 419)", was executed to this section to reflect the probable intent of Congress. Prior to amendment, section read as follows: "When such notes have been prepared, they shall be deposited in the Treasury, or in the designated depository or mint of the United States nearest the place of business of each Federal reserve bank and shall be held for the use of such bank subject to the order of the Comptroller of the Currency for their delivery, as provided by this chapter."

§420. Control and direction of plates and dies; expense of issue and retirement of notes paid by banks

The plates and dies to be procured by the Secretary of the Treasury for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the laws relating to the procuring of such notes, and all other expenses incidental to their issue and retirement, shall be paid by the Federal reserve banks, and the Board of Governors of the Federal Reserve System shall include in its estimate of expenses levied against the Federal reserve banks a sufficient amount to cover the expenses herein provided for.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 267; Pub. L. 103–325, title VI, §602(g)(5), Sept. 23, 1994, 108 Stat. 2293.)

EDITORIAL NOTES

REFERENCES IN TEXT

Phrase "herein provided for", referred to in text, probably means as provided for in section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note set out under section 411 of this title.

CODIFICATION

Section is comprised of the ninth par. (formerly the tenth par.) of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1994—Pub. L. 103–325, which directed amendment of "[t]he 10th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 420)" by substituting "Secretary of the Treasury" for "Comptroller of the Currency" and "Board of Governors of the Federal Reserve System" for "Federal Reserve Board", was executed by making the substitutions in this section to reflect the probable intent of Congress.

§421. Examination of plates and dies

The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and issue regulations relating to such examinations.

(Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 267; Pub. L. 103–325, title VI, §602(g)(6), Sept. 23, 1994, 108 Stat. 2293.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the tenth (formerly the eleventh) par. of section 16 of act Dec. 23, 1913. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

AMENDMENTS

1994—Pub. L. 103–325, which directed general amendment of "[t]he 11th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 421)", was executed to this section to reflect the probable intent of Congress. Prior to amendment, text read as follows: "The examination of plates, dies, bed pieces, and so forth, and regulations relating to such examination of plates, dies, and so forth, of national-bank notes provided for in section 108 of this title, is extended to include notes herein provided for."

§422. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, §16 (par.), 38 Stat. 267, which made permanent appropriations for printing notes besides authorizing use of certain printing stock on hand Dec. 23, 1913, was superseded by act June 26, 1934, ch. 756, §1(a), (b)(3), 48 Stat. 1225.

SUBCHAPTER XIII—CIRCULATING NOTES AND BONDS SECURING SAME

§§441 to 448. Omitted

EDITORIAL NOTES

CODIFICATION

Sections, act Dec. 23, 1913, ch. 6, §18, 38 Stat. 268, as amended by acts Mar. 9, 1933, ch. 1, title IV, §401, 48 Stat. 6; Sept. 23, 1994, Pub. L. 103-325, title VI, §602(g)(7), 108 Stat. 2293, are omitted as obsolete.

Section 441 provided that at any time during a period of twenty years from Dec. 23, 1915, any member bank desiring to retire the whole or any part of its circulating notes file with the Treasurer of the United States an application to sell for its account, at par and accrued interest, United States bonds, securing circulation to be retired.

Section 442 related to purchase of bonds by reserve banks.

Section 443 related to transfer of bonds purchased, payment, and cancellation of circulating notes of member banks.

Section 444 related to issuance of circulating notes to reserve banks purchasing bonds.

Section 445 provided for issuance of circulating notes to Federal Reserve banks. Act June 12, 1945, ch. 186, §3, 59 Stat. 238, provided that all power and authority with respect to the issuance of circulating notes, known as Federal Reserve bank notes, pursuant to this section would cease and terminate on June 12, 1945.

Section 446 related to exchange by reserve banks of bonds bearing circulating privilege for those without such privilege.

Section 447 related to form of bonds and conditions of issuance.

Section 448 related to exchange of one-year gold notes for 3 per centum gold bonds.

SUBCHAPTER XIV—BANK RESERVES

§461. Reserve requirements

(a) Establishment of applicable definitions, payment of interest, obligations as deposits, and regulations

The Board is authorized for the purposes of this section ¹ to define the terms used in this section, ¹ to determine what shall be deemed a payment of interest, to determine what types of obligations, whether issued directly by a member bank or indirectly by an affiliate of a member bank or by other means, and, regardless of the use of the proceeds, shall be deemed a deposit, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this section ¹ and to prevent evasions thereof.

(b) Additional definitions; required amounts of reserves maintained against transaction accounts; waiver of ratio limits in extraordinary circumstances; supplemental reserves; reserves related to foreign obligations or assets; exemption for certain deposits; discount and borrowing; transitional adjustments; additional exemptions and waivers; earnings on balances

(1) The following definitions and rules apply to this subsection, subsection (c), and sections 248-1, 248a, 342, 360, and 412 of this title:

(A) The term "depository institution" means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813] or any bank which is eligible to make application to become an insured bank under section 5 of such Act [12 U.S.C. 1815];

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of

such Act;

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iv) any insured credit union as defined in section 1752 of this title or any credit union which is eligible to make application to become an insured credit union pursuant to section 1781 of this title;

(v) any member as defined in section 1422 of this title;

(vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) which is an insured depository institution (as defined in such Act [12 U.S.C. 1811 et seq.]) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act; and

(vii) for the purpose of sections 248–1, 342 to 347, 347c, 347d, and 372 of this title, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (i) through (vi).

(B) The term "bank" means any insured or noninsured bank, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813], other than a mutual savings bank or a savings bank as defined in such section.

(C) The term "transaction account" means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

(D) The term "nonpersonal time deposits" means a transferable time deposit or account or a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor who is not a natural person.

(E) The term "reservable liabilities" means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).

(F) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

(2)(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

(i) in a ratio of not greater than 3 percent (and which may be zero) for that portion of its total transaction accounts of \$25,000,000 or less, subject to subparagraph (C); and

(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum (and which may be zero), for that portion of its total transaction accounts in excess of \$25,000,000, subject to subparagraph (C).

(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such

subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total transaction accounts of all depository institutions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

(3) Upon a finding by at least 5 members of the Board that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

(4)(A) The Board may, upon the affirmative vote of not less than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

(i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

(ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);

(iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

(iv) on the date on which the supplemental reserve requirement is imposed, except as provided in paragraph (11), the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

(B) The Board may require the supplemental reserve authorized under subparagraph (A) only after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.

(C) If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

(D) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

(5) Foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches,

subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

- (A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to foreign offices of nonrelated depository institutions;
- (B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States; and
- (C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices.

(6) The requirements imposed under paragraph (2) shall not apply to deposits payable only outside the States of the United States and the District of Columbia, except that nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act [12 U.S.C. 601 et seq.] or the authority of the Board under section 3105 of this title.

(7) Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

(8)(A) Any depository institution required to maintain reserves under this subsection which was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-eighth of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to one-fourth of those otherwise required, during the third such twelve-month period in amounts equal to three-eighths of those otherwise required, during the fourth twelve-month period in amounts equal to one-half of those otherwise required, and during the fifth twelve-month period in amounts equal to five-eighths of those otherwise required, during the sixth twelve-month period in amounts equal to three-fourths of those otherwise required, and during the seventh twelve-month period in amounts equal to seven-eighths of those otherwise required. This subparagraph does not apply to any category of deposits or accounts which are first authorized pursuant to Federal law in any State after April 1, 1980.

(B) With respect to any bank which was a member of the Federal Reserve System during the entire period beginning on July 1, 1979, and ending on the effective date of the Monetary Control Act of 1980, the amount of required reserves imposed pursuant to this subsection on and after the effective date of such Act that exceeds the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year.

(C)(i) With respect to any bank which is a member of the Federal Reserve System on the effective date of the Monetary Control Act of 1980, the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied that exceeds the amount of required reserves imposed pursuant to this subsection shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(ii) If a bank becomes a member bank during the four-year period beginning on the effective date of the Monetary Control Act of 1980, and if the amount of reserves which would have been required of such bank, determined as if the reserve ratios in effect during the reserve computation period

immediately preceding such effective date were applied, and as if such bank had been a member during such period, exceeds the amount of reserves required pursuant to this subsection, the amount of reserves required to be maintained by such bank beginning on the date on which such bank becomes a member of the Federal Reserve System shall be the amount of reserves which would have been required of such bank if it had been a member on the day before such effective date, except that the amount of such excess shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(D)(i) Any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning July 1, 1979, and ending on March 31, 1980, shall maintain reserves during the first twelve-month period beginning on October 15, 1982, in amounts equal to one-half of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to two-thirds of those otherwise required, and during the third such twelve-month period in amounts equal to five-sixths of those otherwise required.

(ii) Any bank which withdraws from membership in the Federal Reserve System after March 31, 1980, shall maintain reserves in the same amount as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

(E) This subparagraph applies to any depository institution that, on August 1, 1978, (i) was engaged in business as a depository institution in a State outside the continental limits of the United States, and (ii) was not a member of the Federal Reserve System at any time on or after such date. Such a depository institution shall not be required to maintain reserves against its deposits held or maintained at its offices located in a State outside the continental limits of the United States until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980. Such a depository institution shall maintain reserves against such deposits during the sixth calendar year which begins after such effective date in an amount equal to one-eighth of that otherwise required by paragraph (2), during the seventh such year in an amount equal to one-fourth of that otherwise required, during the eighth such year in an amount equal to three-eighths of that otherwise required, during the ninth such year in an amount equal to one-half of that otherwise required, during the tenth such year in an amount equal to five-eighths of that otherwise required, during the eleventh such year in an amount equal to three-fourths of that otherwise required, and during the twelfth such year in an amount equal to seven-eighths of that otherwise required.

(9) This subsection shall not apply with respect to any financial institution which—

(A) is organized solely to do business with other financial institutions;

(B) is owned primarily by the financial institutions with which it does business; and

(C) does not do business with the general public.

(10) In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Board shall waive the reserve requirement, or waive the penalty for failing to satisfy a reserve requirement, imposed pursuant to this subsection for the depository institution involved when requested by the Federal supervisory authority involved.

(11)(A)(i) Notwithstanding the reserve requirement ratios established under paragraphs (2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed \$2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

(ii) Each depository institution may designate, in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would otherwise be subject to a reserve ratio of 3 per centum under paragraph (2).

(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than \$2,000,000 (as adjusted under subparagraph (B)).

Consistent with the Board's responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.

(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.

(12) EARNINGS ON BALANCES.—

(A) IN GENERAL.—Balances maintained at a Federal Reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal Reserve bank at least once each calendar quarter, at a rate or rates not to exceed the general level of short-term interest rates.

(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

- (i) the payment of earnings in accordance with this paragraph;
- (ii) the distribution of such earnings to the depository institutions which maintain balances at such banks, or on whose behalf such balances are maintained; and
- (iii) the responsibilities of depository institutions, Federal Home Loan Banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal Reserve bank by any such entity on behalf of depository institutions.

(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term "depository institution", in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A [12 U.S.C. 611 et seq.] or having an agreement with the Board under section 25 [12 U.S.C. 601 et seq.], or any branch or agency of a foreign bank (as defined in section 3101 of this title).

(c) Promulgation of rules and regulations respecting maintenance of balances

(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection (b); and

(B) balances maintained by a depository institution in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second

depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727),¹ or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

(2) The balances maintained to meet the reserve requirements of subsection (b) by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State law.

(Dec. 23, 1913, ch. 6, §19(a)–(c), formerly §19 (pars.), 38 Stat. 270; June 21, 1917, ch. 32, §10, 40 Stat. 239; Aug. 23, 1935, ch. 614, title III, §324(a), 49 Stat. 714; renumbered §19(a)–(c) and amended Pub. L. 89–597, §2(a), Sept. 21, 1966, 80 Stat. 823; Pub. L. 91–151, title I, §§4(a), 5, Dec. 23, 1969, 83 Stat. 374, 375; Pub. L. 93–501, title I, §101(a), Oct. 29, 1974, 88 Stat. 1557; Pub. L. 96–221, title I, §§103, 104(a), Mar. 31, 1980, 94 Stat. 133, 138; Pub. L. 97–35, title III, §385, Aug. 13, 1981, 95 Stat. 433; Pub. L. 97–320, title IV, §411, title VII, §708, Oct. 15, 1982, 96 Stat. 1520, 1540; Pub. L. 101–73, title VII, §744(i)(2), (3), Aug. 9, 1989, 103 Stat. 439; Pub. L. 109–351, title II, §§201, 202, title VI, §603, Oct. 13, 2006, 120 Stat. 1968, 1969, 1980; Pub. L. 111–203, title III, §366(2), July 21, 2010, 124 Stat. 1556.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in subsec. (a), means section 19 of act Dec. 23, 1913, which is classified to sections 142, 371b, 371b–1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

The Federal Deposit Insurance Act, referred to in subsec. (b)(1)(A)(vi), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

Section 25 of this Act and section 25, referred to in subsec. (b)(6), (12)(C), mean section 25 of act Dec. 23, 1913, ch. 6, which is classified to subchapter I (§601 et seq.) of chapter 6 of this title.

For the effective date of the Monetary Control Act of 1980, referred to in subsec. (b)(8), see section 108 of Pub. L. 96–221, set out as an Effective Date of 1980 Amendment note under section 248 of this title.

Section 25A, referred to in subsec. (b)(12)(C), means section 25A of act Dec. 23, 1913, ch. 6, known as the Edge Act, which is classified to subchapter II (§611 et seq.) of chapter 6 of this title.

Section 404 of the National Housing Act (12 U.S.C. 1727), referred to in subsec. (c)(1)(B), was repealed by Pub. L. 101–73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

CODIFICATION

Section is comprised of subsecs. (a) to (c), formerly first six pars., of section 19 of act Dec. 23, 1913 (such first, second through fifth, and sixth pars. formerly classified to sections 461, 462, and 462b of this title, respectively), as redesignated by Pub. L. 89–597. For credits prior to enactment of Pub. L. 89–597 on Sept. 21, 1966, see notes set out under sections 462 and 462b of this title.

AMENDMENTS

2010—Subsec. (b)(1)(F), (4)(B). Pub. L. 111–203 substituted "Comptroller of the Currency" for "Director of the Office of Thrift Supervision".

2006—Subsec. (b)(2)(A). Pub. L. 109–351, §202, substituted "a ratio of not greater than 3 percent (and which may be zero)" for "the ratio of 3 per centum" in cl. (i) and "(and which may be zero)," for "and not less than 8 per centum," in cl. (ii).

Subsec. (b)(4)(C) to (E). Pub. L. 109–351, §201(b)(1), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C) which read as follows: "The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii) of this section, such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar

quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph."

Subsec. (b)(12). Pub. L. 109-351, §201(a), added par. (12).

Subsec. (c)(1)(A). Pub. L. 109-351, §201(b)(2), substituted "subsection (b)" for "subsection (b)(4)(C)".

Subsec. (c)(1)(B). Pub. L. 109-351, §603, struck out "which is not a member bank" after "balances maintained by a depository institution".

1989—Subsec. (b)(1)(A)(vi). Pub. L. 101-73, §744(i)(2), amended cl. (vi) generally. Prior to amendment, cl. (vi) read as follows: "any insured institution as defined in section 1724 of this title or any institution which is eligible to make application to become an insured institution under section 1726 of this title; and".

Subsec. (b)(1)(F), (4)(B). Pub. L. 101-73, §744(i)(3), substituted "Director of the Office of Thrift Supervision" for "Federal Home Loan Bank Board".

1982—Subsec. (b)(1)(E), (F). Pub. L. 97-320, §411(c), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (b)(4)(A)(iv). Pub. L. 97-320, §411(b), inserted "except as provided in paragraph (11)".

Subsec. (b)(8)(D)(i). Pub. L. 97-320, §708(1), substituted provisions relating to reserve requirements for banks which withdraw from the Federal Reserve System for provision that any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on the day before March 31, 1980, would maintain reserves beginning on March 31, 1980, in an amount equal to the amount of reserves it would have been required to maintain if it had been a member bank on March 31, 1980, and that after March 31, 1980, any such bank was directed to maintain reserves in the same amounts as member banks were required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

Subsec. (b)(8)(D)(ii). Pub. L. 97-320, §708(2), struck out "on or" after "Reserve System".

Subsec. (b)(11). Pub. L. 97-320, §411(a), added par. (11).

1981—Subsec. (b)(8)(E). Pub. L. 97-35 substituted provisions relating to applicability to any depository institution that was on Aug. 1, 1978, engaged in such business in a State outside the continental limits and was not a member of the Federal Reserve System at any time on or after such date, for provisions relating to applicability to any depository institution that was on Aug. 1, 1978, engaged in such business under the laws of a State, was not a member of the Federal Reserve System on that date, and the principal office of which was outside the continental limits on that date and has remained outside ever since.

1980—Subsec. (b). Pub. L. 96-221, §103, substituted provisions setting forth additional definitions applicable to reserve requirements and requirements respecting amounts of reserves maintained against transaction accounts, waiver of ratio limits in extraordinary circumstances, supplemental reserves, reserves related to foreign obligations or assets, exemptions for certain deposits, discounts and borrowings, transitional adjustments, and additional exemptions and waivers, for provisions relating to determinations respecting maintenance of reserves against deposits.

Subsec. (c). Pub. L. 96-221, §104(a), substituted provisions relating to the promulgation of rules and regulations respecting maintenance of balances, for provisions relating to form of reserves held by member banks.

1974—Subsec. (a). Pub. L. 93-501 substituted "and, regardless of the use of the proceeds, shall be deemed a deposit" for "shall be deemed a deposit".

1969—Subsec. (a). Pub. L. 91-151, §4(a), authorized Board to determine type of obligations that would be deemed deposits.

Subsec. (b). Pub. L. 91-151, §5, authorized Board to prescribe ratio of indebtedness of member banks to foreign banks, up to a maximum of 22 percent.

1966—Pub. L. 89-597 designated first par. provisions of section 19 of act Dec. 23, 1913, as subsec. (a), substituted a general provision authorizing Board to define terms used in sections 142, 371a, 371b, 374, 374a, and 463 to 466 of this title for former provisions defining terms "demand deposits", "gross demand deposits", "deposits payable on demand", "time deposits", "savings deposits", and "trust funds", struck out inclusion of "savings deposits" in term "time deposits" in regard to reserve requirements of member banks, and added subsecs. (b) and (c) to such section 19, superseding second through sixth pars., which authorized Board to fix reserve requirements against time deposits between the limits of 3 and 10 percent, in lieu of prior limits of 3 and 6 percent, and struck out provision for modification of reserve requirements to prevent injurious credit to expansion or contraction.

1935—Act Aug. 23, 1935, abrogated statutory construction of demand deposits.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–351, title II, §203, Oct. 13, 2006, 120 Stat. 1969, as amended by Pub. L. 110–343, div. A, title I, §128, Oct. 3, 2008, 122 Stat. 3796, provided that: "The amendments made by this title [amending this section] shall take effect October 1, 2008."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–221 effective on first day of sixth month which begins after Mar. 31, 1980, except that the amendments regarding subsec. (b)(7) and (8)(D) effective on Mar. 31, 1980, see section 108 of Pub. L. 96–221, set out as a note under section 248 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93–501, title I, §101(b), Oct. 29, 1974, 88 Stat. 1557, provided that: "The amendment made by subsection (a) [amending this section] shall not apply to any bank holding company which has filed prior to the date of enactment of this Act [Oct. 29, 1974], an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act [12 U.S.C. 1843], or to any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933 [15 U.S.C. 77c(a)(3)]."

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Pub. L. 89–597, §7, Sept. 21, 1966, 80 Stat. 825, as amended by Pub. L. 90–87, Sept. 21, 1967, 81 Stat. 226; Pub. L. 90–505, §1, Sept. 21, 1968, 82 Stat. 856; Pub. L. 91–71, Sept. 22, 1969, 83 Stat. 115; Pub. L. 91–151, title I, §1, Dec. 23, 1969, 83 Stat. 371; Pub. L. 92–8, §1, Mar. 31, 1971, 85 Stat. 13; Pub. L. 92–15, §1, May 18, 1971, 85 Stat. 38; Pub. L. 93–63, July 6, 1973, 87 Stat. 147; Pub. L. 93–100, §1, Aug. 16, 1973, 87 Stat. 342; Pub. L. 93–495, title I, §107, Oct. 28, 1974, 88 Stat. 1505; Pub. L. 94–200, title I, §101, Dec. 31, 1975, 89 Stat. 1124; Pub. L. 95–22, title I, §101, Apr. 19, 1977, 91 Stat. 49; Pub. L. 95–188, title I, §101, Nov. 16, 1977, 91 Stat. 1387; Pub. L. 95–630, title XVI, §1601, Nov. 10, 1978, 92 Stat. 3713, which provided effective and termination dates for 1966 amendments by Pub. L. 89–597 (affecting sections 371b, 1425b, and 1828(g) of this title), was repealed by Pub. L. 96–221, title II, §207(a), Mar. 31, 1980, 94 Stat. 144.

ELIMINATION OR REDUCTION OF INTEREST RATE DIFFERENTIAL BETWEEN SAVINGS BANKS AND SAVINGS AND LOAN, BUILDING AND LOAN, OR HOMESTEAD ASSOCIATIONS

Pub. L. 94–200, title I, §102, Dec. 31, 1975, 89 Stat. 1124, as amended by Pub. L. 95–630, title XVI, §1602, Nov. 10, 1978, 92 Stat. 3713, which had provided that an interest rate differential for any category of deposits or accounts which was in effect on December 10, 1975, between (1) any bank (other than a savings bank) the deposits of which were insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which were insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)) [section 1813(f) of this title] could not be eliminated or reduced unless (A) written notification was given by the Board of Governors of the Federal Reserve System to the Congress; and (B) the House of Representatives and the Senate approved, by concurrent resolution, the proposed elimination or reduction of the interest rate differential, was repealed by Pub. L. 97–320, title III, §326(a), Oct. 15, 1982, 96 Stat. 1500. See section 326(b)–(d) of Pub. L. 97–320, set out as a note under section 1828 of this title. See, also, section 207(b)(1) of Pub. L. 96–221 providing for repeal of section 102 of Pub. L. 94–200 effective 6 years after Mar. 31, 1980.

INTEREST RATES: CONTROLS

Pub. L. 89–597, §1, Sept. 21, 1966, 80 Stat. 823, provided that: "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, in implementation of their respective powers under existing law and this Act [enacting section 1425b of this title, amending this section, sections 355, 371b, and 1828 of this title, and section 771 of former Title 31, Money and Finance, repealing section 462a–1 of this title and enacting provisions set out as notes under this section], shall take action to bring about the reduction of interest rates to the maximum extent feasible in the light of prevailing money market and general economic conditions."

Effective and termination dates of control of interest rates provisions, see Effective and Termination Dates of 1966 Amendment note above.

OUTSTANDING RATE REGULATIONS

Pub. L. 89–597, §5, Sept. 21, 1966, 80 Stat. 825, provided that: "Any regulation prescribed by the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation with respect to the payment of deposits and interest thereon by member banks or insured nonmember banks which is in effect when this Act is enacted [Sept. 21, 1966] shall continue in effect unless and until it is modified or rescinded after consultation with the Board of Directors or the Board of Governors, as the case may be, and the Federal Home Loan Bank Board."

Effective and termination dates of existing rate regulations, see Effective and Termination Dates of 1966 Amendment note under this section.

¹ [*See References in Text note below.*](#)

§462. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts Dec. 23, 1913, ch. 6, §19 (par.), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, §10, 40 Stat. 239; Sept. 26, 1918, ch. 177, §4, 40 Stat. 970; July 28, 1959, Pub. L. 86–114, §§1, 2(a), 3(b)(7)–(9), 73 Stat. 863, which related to balances member banks were required to keep in reserve banks, was omitted from the Code in view of the striking out of second through fifth pars. of section 19 of act Dec. 23, 1913 (formerly comprising this section), and incorporation of provisions of such paragraphs in subsecs. (a) to (c) of section 19 of act Dec. 23, 1913 by section 2(a) of Pub. L. 89–597, Sept. 21, 1966, 80 Stat. 823. See section 461 of this title.

§462a. Repealed. Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section, act Apr. 24, 1917, ch. 4, §7, 40 Stat. 37, related to reserves against United States deposits.

§462a–1. Repealed. Pub. L. 89–597, §2(d), Sept. 21, 1966, 80 Stat. 824

Section, act Dec. 23, 1913, ch. 6, §19 (par.), as added Aug. 23, 1935, ch. 614, title III, §324(d), 49 Stat. 715; amended Apr. 13, 1943, ch. 62, §2, 57 Stat. 65, prescribed maintenance of same bank reserves against deposits by United States as were required against other deposits.

§§462b, 462c. Omitted

EDITORIAL NOTES

CODIFICATION

Section 462b, act Dec. 23, 1913, ch. 6, §19 (par.), as added May 12, 1933, ch. 25, title III, §46, 48 Stat. 54; amended Aug. 23, 1935, ch. 614, title II, §207, 49 Stat. 706; July 7, 1942, ch. 488, §2, 56 Stat. 648; July 28, 1959, Pub. L. 86–114, §§2(b), 3(b)(10), (11), 73 Stat. 263, 264, related to change of requirements as to reserves in order to prevent credit expansion or contraction, and was omitted from the Code in view of the striking out of the sixth par. of section 19 of act Dec. 23, 1913 (formerly comprising this section), and incorporation of its provisions in subsecs. (a) to (c) of section 19 of act Dec. 23, 1913 by section 2(a) of Pub. L. 89–597, Sept. 21, 1966, 80 Stat. 823. See section 461 of this title.

Section 462c, act Dec. 23, 1913, ch. 6, §19 (par.), as added Aug. 16, 1948, ch. 836, §2, 62 Stat. 1291,

related to change of requirements as to reserves to check credit expansion, and terminated on June 30, 1949.

§463. Limitation on amount of balance with any depository institution without access to Federal Reserve advances

No member bank shall keep on deposit with any depository institution which is not authorized to have access to Federal Reserve advances under section 347b ¹ of this title a sum in excess of 10 per centum of its own paid-up capital and surplus.

(Dec. 23, 1913, ch. 6, §19(e), formerly §19 (par. 8), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, §10, 40 Stat. 239; renumbered §19(e), Pub. L. 89–597, §2(b), Sept. 21, 1966, 80 Stat. 824; Pub. L. 96–221, title I, §105(e), Mar. 31, 1980, 94 Stat. 140.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 347b of this title, referred to in text, was in the original a reference to section 10(b) of this Act, meaning section 10(b) of the Federal Reserve Act. Section 10(b) of that Act was renumbered section 10B by Pub. L. 102–242, title I, §142(a)(2), Dec. 19, 1991, 105 Stat. 2279, without a corresponding amendment to this section.

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 374 of this title.

AMENDMENTS

1980—Pub. L. 96–221 substituted provisions limiting amount of balance required to be kept with any depository institution without access to Federal Reserve advances, for provisions limiting amount of balance required to be kept with any State bank or trust company.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–221 effective on first day of sixth month which begins after Mar. 31, 1980, see section 108 of Pub. L. 96–221, set out as a note under section 248 of this title.

¹ [*See References in Text note below.*](#)

§464. Checking against and withdrawal of reserve balance

The required balance carried by a member bank with a Federal reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Board of Governors of the Federal Reserve System, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities.

(Dec. 23, 1913, ch. 6, §19(f), formerly §19 (par. 9), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, §10, 40 Stat. 239; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; July 7, 1942, ch. 488, §3, 56 Stat. 648; renumbered §19(f), Pub. L. 89–597, §2(b), Sept. 21, 1966, 80 Stat. 824.)

EDITORIAL NOTES

CODIFICATION

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

AMENDMENTS

1942—Act July 7, 1942, struck out proviso which prohibited making new loans or paying dividends until required balance was restored.

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.

§465. Basis for ascertaining deposits against which required balance is determined

In estimating the reserve balances required by this chapter, member banks may deduct from the amount of their gross demand deposits the amounts of balances due from other banks (except Federal Reserve banks and foreign banks) and cash items in process of collection payable immediately upon presentation in the United States, within the meaning of these terms as defined by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §19(g), formerly §19 (par. 10), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 692; June 21, 1917, ch. 32, §10, 40 Stat. 240; Aug. 23, 1935, ch. 614, title III, §324(b), 49 Stat. 714; renumbered §19(g), 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 subsec. (g), formerly tenth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

AMENDMENTS

1935—Act Aug. 23, 1935, changed method of estimating reserve balances.

§466. Reserves of banks in dependencies or insular possessions

National banks, or banks organized under local laws, located in a dependency or insular possession or any part of the United States outside the continental United States, may remain nonmember banks, and shall in that event maintain reserves and comply with all the conditions now provided by law regulating them; or said banks may with the consent of the Board of Governors of the Federal Reserve System, become member banks of any one of the reserve districts, and shall in that event take stock, maintain reserves, and be subject to all the other provisions of this chapter.

(Dec. 23, 1913, ch. 6, §19(h), formerly §19 (par. 11), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 692; June 21, 1917, ch. 32, §10, 40 Stat. 240; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 86-70, §8(b), June 25, 1959, 73 Stat. 142; renumbered §19(h), 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 subsec. (h), formerly eleventh par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

AMENDMENTS

1959—Pub. L. 86-70 struck out "in Alaska or" before "in a dependency".

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.

§467. Deposits of gold coin, gold certificates, and Special Drawing Right certificates with United States Treasurer

The Secretary of the Treasury is authorized and directed to receive deposits of gold or of gold certificates or of Special Drawing Right certificates with the Treasurer or any designated depository of the United States when tendered by any Federal Reserve bank or Federal Reserve agent for credit to its or his account with the Board of Governors of the Federal Reserve System. The Secretary shall prescribe by regulation the form of receipt to be issued by the Treasurer or designated depository to the Federal Reserve bank or Federal Reserve agent making the deposit, and a duplicate of such receipt shall be delivered to the Board of Governors of the Federal Reserve System by the Treasurer at Washington upon proper advices from any designated depository that such deposit has been made. Deposits so made shall be held subject to the orders of the Board of Governors of the Federal Reserve System and deposits of gold or gold certificates shall be payable in gold certificates, and deposits of Special Drawing Right certificates shall be payable in Special Drawing Right certificates, on the order of the Board of Governors of the Federal Reserve System to any Federal Reserve bank or Federal Reserve agent at the Treasury or at the subtreasury of the United States nearest the place of business of such Federal Reserve bank or such Federal Reserve agent. The order used by the Board of Governors of the Federal Reserve System in making such payments shall be signed by the chairman or vice chairman, or such other officers or members as the Board may by regulation prescribe. The form of such order shall be approved by the Secretary of the Treasury.

The expenses necessarily incurred in carrying out these provisions, including the cost of the certificates or receipts issued for deposits received, and all expenses incident to the handling of such deposits shall be paid by the Board of Governors of the Federal Reserve System and included in its assessments against the several Federal Reserve banks.

Nothing in this section ¹ shall be construed as amending section six of the Act of March fourteenth, nineteen hundred, as amended by the Acts of March fourth, nineteen hundred and seven, March second, nineteen hundred and eleven, and June twelfth, nineteen hundred and sixteen, nor shall the provisions of this section ¹ be construed to apply to the deposits made or to the receipts or certificates issued under those Acts.

(Dec. 23, 1913, ch. 6, §16 (pars.), as added June 21, 1917, ch. 32, §8, 40 Stat. 238; amended May 29, 1920, ch. 214, §1, 41 Stat. 654; Jan. 30, 1934, ch. 6, §2(b)(7), (8), 48 Stat. 339, 340; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 89-3, §2, Mar. 3, 1965, 79 Stat. 5; Pub. L. 90-269, §7, Mar. 18, 1968, 82 Stat. 50; Pub. L. 90-349, §5(d), June 19, 1968, 82 Stat. 189.)

EDITORIAL NOTES

REFERENCES IN TEXT

Words "this section", referred to in last par., mean section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note set out under section 411 of this title.

Section six of the Act of March fourteenth, nineteen hundred, as amended by the Acts of March fourth, nineteen hundred and seven, March second, nineteen hundred and eleven, and June twelfth, nineteen hundred and sixteen, referred to in text, which was classified to section 429 of former Title 31, was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

CODIFICATION

Section is comprised of the fourteenth to sixteenth pars. of section 16 of act Dec. 23, 1913. Section was formerly comprised of the fifteenth to eighteenth pars. of section 16 of act Dec. 23, 1913, before repeal of the sixth and seventeenth pars. of section 16 by Pub. L. 90-269, see 1968 Amendment notes set out under this section and section 415 of this title. For classification to this title of other pars. of section 16, see Codification note set out under section 411 of this title.

On authority of act May 29, 1920, which abolished offices of Assistant Treasurers and distributed their functions, the 1926 ed. of the Code omitted two references to Assistant Treasurers; those references were restored by act January 30, 1934.

AMENDMENTS

1968—Pub. L. 90-349, which directed amendment of "[t]he fifteenth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 467)," by inserting "or of Special Drawing Right certificates" after "gold certificates" in the first sentence and substituting "Deposits so made shall be held subject to the orders of the Board of Governors of the Federal Reserve System and deposits of gold or gold certificates shall be payable in gold certificates, and deposits of Special Drawing Right certificates shall be payable in Special Drawing Right certificates, on the order of the Board of Governors of the Federal Reserve System to any Federal Reserve bank or Federal Reserve agent at the Treasury or at the subtreasury of the United States nearest the place of business of such Federal Reserve bank or such Federal Reserve agent." for the third sentence, was executed to the first par. of this section to reflect the probable intent of Congress.

Pub. L. 90-269, which directed striking out of "[t]he paragraph which, prior to the amendments made by this Act [amending sections 248, 391, and 413 to 416 of this title and sections 405b, 408a, 408b, and 821 of Title 31, Money and Finance, and repealing section 408 of Title 31], was the eighteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 467)", was executed, to reflect the probable intent of Congress (see H.R. Rept. No. 1095, 90th Cong., pp. 1-7 (purpose of legislation), 10 (Ramseyer version) (1968)), by striking out the third par. of this section (seventeenth par. of section 16 of act Dec. 23, 1913), which read as follows: "Deposits made under this section standing to the credit of any Federal Reserve bank with the Board of Governors of the Federal Reserve System shall, at the option of said bank, be counted as part of the lawful reserve which it is required to maintain against outstanding Federal Reserve notes."

1965—Pub. L. 89-3, which directed amendment of "[t]he eighteenth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 467), * * * by substituting a period for the comma after the word 'notes' and striking out the remainder of the paragraph", was executed to the third par. of this section (seventeenth par. of section 16 of act Dec. 23, 1913) to reflect the probable intent of Congress.

1934—Act Jan. 30, 1934, which directed general amendment of the sixteenth and eighteenth pars. of act Dec. 23, 1913, was executed to the first and third pars. of this section (fifteenth and seventeenth pars. of section 16 of act Dec. 23, 1913, respectively) to reflect the probable intent of Congress. Prior to amendment, the first par. of this section authorized and directed the Secretary of the Treasury to receive deposits of gold coin or gold certificates and to prescribe by regulation the form of a receipt to be issued to the Federal reserve bank or agent; the third par. of this section provided that a Federal reserve bank's gold deposits could count towards its reserve requirement.

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

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

¹ [See References in Text note below.](#)

SUBCHAPTER XV—BANK EXAMINATIONS

§481. Appointment of examiners; examination of member banks, State banks, and trust companies; reports

The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank as often as the Comptroller of the Currency shall deem necessary. The examiner making the examination of any national bank shall have power to make a thorough examination of all the affairs of the bank and in doing so he shall have power to administer oaths and to examine any of the officers and agents thereof under oath and shall make a full and detailed report of the condition of said bank to the Comptroller of the Currency: *Provided*, That in making the examination of any national bank the examiners shall include such an examination of the affairs of all its affiliates other than member banks as shall be necessary to disclose fully the relations between such bank and such affiliates and the effect of such relations upon the affairs of such bank; and in the event of the refusal to give any information required in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, all the rights, privileges, and franchises of the bank shall be subject to forfeiture in accordance with section 2 of the Federal Reserve Act, as amended (U.S.C., title 12, secs. 141, 222–225, 281–286, and 502).¹ The Comptroller of the Currency shall have power, and he is authorized, to publish the report of his examination of any national banking association or affiliate which shall not within one hundred and twenty days after notification of the recommendations or suggestions of the Comptroller, based on said examination, have complied with the same to his satisfaction. Ninety days' notice prior to such publicity shall be given to the bank or affiliate.

The examiner making the examination of any affiliate of a national bank shall have power to make a thorough examination of all the affairs of the affiliate, and in doing so he shall have power to administer oaths and to examine any of the officers, directors, employees, and agents thereof under oath and to make a report of his findings to the Comptroller of the Currency. If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this subchapter or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe. The examiners and assistant examiners making the examinations of national banking associations and affiliates thereof herein provided for and the chief examiners, reviewing examiners and other persons whose services may be required in connection with such examinations or the reports thereof, shall be employed by the Comptroller of the Currency with the approval of the Secretary of the Treasury; the employment and compensation of examiners, chief examiners, reviewing examiners, assistant examiners, and of the other employees of the office of the Comptroller of the Currency whose compensation is and shall be paid from assessments on banks or affiliates thereof or from other fees or charges imposed pursuant to this subchapter shall be set and adjusted subject to chapter 71 of title 5 and without regard to the provisions of other laws applicable to officers or employees of the United States. The funds derived from such assessments, fees, or charges may be deposited by the Comptroller of the Currency in

accordance with the provisions of section 192 of this title and shall not be construed to be Government funds or appropriated monies; and the Comptroller of the Currency is authorized and empowered to prescribe regulations governing the computation and assessment of the expenses of examinations herein provided for and the collection of such assessments from the banks and/or affiliates examined or of other fees or charges imposed pursuant to this subchapter. Such funds shall not be subject to apportionment for the purpose of chapter 15 of title 31 or under any other authority. If any affiliate of a national bank shall refuse to permit an examiner to make an examination of the affiliate or shall refuse to give any information required in the course of any such examination, the national bank with which it is affiliated shall be subject to a penalty of not more than \$5,000 for each day that any such refusal shall continue. Such penalty may be assessed by the Comptroller of the Currency and collected in the same manner as expenses of examinations. The Comptroller of the Currency, upon the request of the Board of Governors of the Federal Reserve System, is authorized to assign examiners appointed under this subchapter to examine foreign operations of State banks which are members of the Federal Reserve System.

(R.S. §5240 (pars.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 271; June 16, 1933, ch. 89, §28, 48 Stat. 192; Aug. 23, 1935, ch. 614, title II, §203(a), title III, §343, 49 Stat. 704, 722; June 30, 1948, ch. 762, §1, 62 Stat. 1163; Apr. 30, 1956, ch. 228, §1, 70 Stat. 124; Pub. L. 96–221, title VII, §709, Mar. 31, 1980, 94 Stat. 188; Pub. L. 100–86, title V, §505(b), Aug. 10, 1987, 101 Stat. 633; Pub. L. 101–73, title IX, §907(f), Aug. 9, 1989, 103 Stat. 470; Pub. L. 102–242, title I, §114(b), Dec. 19, 1991, 105 Stat. 2248; Pub. L. 111–203, title III, §318(a)(1), July 21, 2010, 124 Stat. 1526.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2 of the Federal Reserve Act, referred to in first par., is section 2 of act Dec. 23, 1913, ch. 6, 38 Stat. 251, which is classified to former section 141, sections 222 to 225 and 281 to 283, former section 284, and sections 285, 286, 501a, and 502 of this title. See Codification note set out under section 222 of this title.

This subchapter, referred to in second par., was in the original a reference to this section, meaning section 5240 of the Revised Statutes.

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

R.S. §5240, as amended by acts Dec. 23, 1913, July 2, 1932, June 16, 1933, Pub. L. 101–73, and Pub. L. 102–242, is comprised of 7 undesignated paragraphs. Pars. 1 and 2 are classified to section 481 of this title, pars. 3 and 4 are classified to section 482 of this title, and pars. 5 to 7 are classified to sections 483 to 485, respectively, of this title.

AMENDMENTS

2010—Pub. L. 111–203, in fourth sentence of second par., substituted "set and adjusted subject to chapter 71 of title 5 and without regard to the provisions of other laws applicable to officers or employees of the United States" for "without regard to the provisions of other laws applicable to officers or employees of the United States".

1991—Pub. L. 102–242, in second par., inserted second and third sentences and struck out former second and third sentences which read as follows: "The expense of examinations of such affiliates may be assessed by the Comptroller of the Currency upon the affiliates examined in proportion to assets or resources held by the affiliates upon the dates of examination of the various affiliates. If any such affiliate shall refuse to pay such expenses or shall fail to do so within sixty days after the date of such assessment, then such expenses may be assessed against the affiliated national bank and, when so assessed, shall be paid by such national bank: *Provided, however,* That, if the affiliation is with two or more national banks, such expenses may be assessed against, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.", in fourth sentence, inserted "or from other fees or charges imposed pursuant to this subchapter" after "assessments on banks or affiliates thereof", and in fifth sentence, inserted ", fees, or charges" before "may be deposited" and "or of other fees or charges imposed pursuant to this subchapter" before period.

1989—Pub. L. 101–73, in second par., increased the penalty for refusal to allow the examination from \$100 to \$5,000.

1987—Pub. L. 100–86 inserted after fifth sentence of second par. "Such funds shall not be subject to apportionment for the purpose of chapter 15 of title 31 or under any other authority."

1980—Pub. L. 96–221 inserted provisions relating to examination of foreign operations of State banks which are members of the Federal Reserve System, and substituted provisions authorizing examinations as often as the Comptroller deems necessary, for provisions requiring examinations twice in every calendar year, and provisions authorizing the Comptroller to waive one examination or require additional examinations.

1956—Act Apr. 30, 1956, allowed Comptroller to waive 1 of the 2 examinations required each year, but not more than one waiver every two years.

1948—Act June 30, 1948, struck out in first sentence after first proviso of second par. ", including retirement annuities to be fixed by the Comptroller of the Currency,".

1935—Act Aug. 23, 1935, §343, substituted in first sentence after first proviso of second par. "including retirement annuities to be fixed by the Comptroller of the Currency, is and shall be" for "is".

1933—Act June 16, 1933, inserted proviso and last two sentences at end of first par. and added second par.

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.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 318(e) of Pub. L. 111–203, set out as an Effective Date note under section 16 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101–73, set out as a note under section 93 of this title.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 30, 1948, effective on first day of first pay period beginning at least 30 days after June 30, 1948, see section 5 of that act.

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.

¹ [*See References in Text note below.*](#)

§482. Employees of Office of Comptroller of the Currency; appointment; compensation and benefits

Notwithstanding any of the provisions of section 481 of this title or section 301(f)(1) of title 31 to the contrary, the Comptroller of the Currency shall, subject to chapter 71 of title 5, fix the compensation and number of, and appoint and direct, all employees of the Office of the Comptroller of the Currency. Rates of basic pay for all employees of the Office may be set and adjusted by the Comptroller without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5. The Comptroller may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory

agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Comptroller shall consult with, and seek to maintain comparability with, other Federal banking agencies.

The Comptroller of the Currency may impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the office ¹ of the Comptroller. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.

(R.S. §5240 (pars.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 272; July 2, 1932, ch. 392, 47 Stat. 568; Aug. 23, 1935, ch. 614, title III, §343, 49 Stat. 722; Apr. 30, 1956, ch. 228, §2, 3, 70 Stat. 124; Pub. L. 101–73, title XII, §1202, Aug. 9, 1989, 103 Stat. 520; Pub. L. 102–242, title I, §114(a), Dec. 19, 1991, 105 Stat. 2248; Pub. L. 102–550, title XVI, §1603(b)(5), Oct. 28, 1992, 106 Stat. 4079; Pub. L. 103–325, title III, §331(b)(1), Sept. 23, 1994, 108 Stat. 2232; Pub. L. 111–203, title III, §318(a)(2), July 21, 2010, 124 Stat. 1526.)

EDITORIAL NOTES

REFERENCES IN TEXT

Provisions of section 481 of this title, referred to in first par., was in the original "preceding provisions of this section", meaning R.S. §5240. See Codification note set out below.

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

Section is comprised of third and fourth pars. of R.S. §5240, as amended. The former fifth par. of R.S. §5440, which comprised the third par. of this section, was repealed by Pub. L. 102–242. See Codification note set out under section 481 of this title.

AMENDMENTS

2010—Pub. L. 111–203, in first sentence of first par., substituted "shall, subject to chapter 71 of title 5, fix" for "shall fix".

1994—Pub. L. 103–325 inserted "or section 301(f)(1) of title 31" after "provisions of section 481 of this title".

1992—Pub. L. 102–550 substituted "office" for "duties" in second par.

1991—Pub. L. 102–242 added second par. and struck out former second and third pars. which read as follows:

"The expense of the examinations provided for in this subchapter shall be assessed by the Comptroller of the Currency upon national banks in proportion to their assets or resources. The assessments may be made more frequently than annually at the discretion of the Comptroller of the Currency. The annual rate of such assessment shall be the same for all national banks, except that banks examined more frequently than twice in one calendar year shall, in addition, be assessed the expense of these additional examinations.

"In addition to the expense of examination to be assessed by the Comptroller of the Currency as heretofore provided, all national banks exercising fiduciary powers and all banks or trust companies in the District of Columbia exercising fiduciary powers shall be assessed by the Comptroller of the Currency for the examination of their fiduciary activities a fee adequate to cover the expense thereof."

1989—Pub. L. 101–73, in first paragraph, substituted "Notwithstanding any of the provisions of section 481 of this title to the contrary, the Comptroller of the Currency shall fix the compensation and number of, and appoint and direct, all employees of the Office of the Comptroller of the Currency. Rates of basic pay for all employees of the Office may be set and adjusted by the Comptroller without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5. The Comptroller may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Comptroller shall consult with, and seek to

maintain comparability with, other Federal banking agencies." for "The Comptroller of the Currency shall fix the salaries of all bank examiners and make report thereof to Congress." and redesignated remaining sentences of first paragraph as a second paragraph. Former second paragraph became third paragraph.

1956—Act Apr. 30, 1956, provided that assessments may be made more frequently than annually and the annual rate of such assessment shall be the same for all national banks except that banks examined more than twice in one year shall be assessed the expense of the additional examinations, and based additional charges for examining all national banks exercising fiduciary powers and all banks or trust companies in the District of Columbia exercising fiduciary powers on the cost of making the examination rather than the amount of trust assets under administration.

1935—Act Aug. 23, 1935, substituted in first sentence "The Comptroller of the Currency" for "The Federal Reserve Board, upon the recommendation of the Comptroller of the Currency".

1932—Act July 2, 1932, added last par.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 318(e) of Pub. L. 111–203, set out as an Effective Date note under section 16 of this title.

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.

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.

¹ So in original. Probably should be capitalized.

§483. Special examination of member banks; information of condition furnished to Board of Governors of the Federal Reserve System

In addition to the examinations made and conducted by the Comptroller of the Currency, every Federal reserve bank may, with the approval of the Federal reserve agent or the Board of Governors of the Federal Reserve System, provide for special examination of member banks within its district. The expense of such examinations may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against the banks examined, and, when so assessed, shall be paid by the banks examined. Such examinations shall be so conducted as to inform the Federal reserve bank of the condition of its member banks and of the lines of credit which are being extended by them. Every Federal reserve bank shall at all times furnish to the Board of Governors of the Federal Reserve System such information as may be demanded concerning the condition of any member bank within the district of the said Federal reserve bank.

(R.S. §5240 (par.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 272; June 26, 1930, ch. 611, §2, 46 Stat. 814; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

Section is comprised of fifth par. of R.S. §5240, as amended. See Codification note set out under section 481 of this title.

AMENDMENTS

1930—Act June 26, 1930, substituted second sentence "The expense of such examinations may, in the discretion of the Federal Reserve Board, be assessed against the banks examined, and, when so assessed, shall be paid by the banks examined." for "The expense of such examinations shall be borne by the bank examined."

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.

§484. Limitation on visitorial powers

(a) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

(b) Notwithstanding subsection (a), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.

(R.S. §5240 (par.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 272; Pub. L. 97-320, title IV, §412, Oct. 15, 1982, 96 Stat. 1521; Pub. L. 97-457, §23(a), Jan. 12, 1983, 96 Stat. 2510.)

EDITORIAL NOTES

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

Section is comprised of sixth par. of R.S. §5240, as amended. See Codification note set out under section 481 of this title.

Section 412 of Pub. L. 97-320, set out in the credit of this section, was amended by section 23(a) of Pub. L. 97-457 to correct an error in the directory language of section 412 of Pub. L. 97-320. That amendment involved only directory language and not the content of the text being amended by Pub. L. 97-320 so no change in the text of this section resulted from the amendment by Pub. L. 97-457.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97-320, as amended by Pub. L. 97-457, designated existing provisions as subsec. (a), and amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: "No bank shall be subject to any visitorial powers other than such as are authorized by law, or vested in the courts of justice or such as shall be or shall have been exercised or directed by Congress, or by either House thereof or by any committee of Congress or of either House duly authorized".

Subsec. (b). Pub. L. 97-320, as amended by Pub. L. 97-457, added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-457, §23(b), Jan. 12, 1983, 96 Stat. 2510, provided that: "The amendment made by subsection (a) [amending section 412 of Pub. L. 97-320, which amended this section] shall be deemed to have taken effect upon the enactment of Public Law 97-320 [Oct. 15, 1982]."

§485. Examination of Federal reserve banks

The Board of Governors of the Federal Reserve System shall, at least once each year, order an examination of each Federal reserve bank, and upon joint application of ten member banks the Board of Governors of the Federal Reserve System shall order a special examination and report of the condition of any Federal reserve bank.

(R.S. §5240 (par.); Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, §21, 38 Stat. 272; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

R.S. §5240 derived from act June 3, 1864, ch. 106, §54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

Section is comprised of seventh par. of R.S. §5240, as amended. See Codification note set out under section 481 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.

§486. Waiver of requirements as to reports from or examinations of affiliates

Whenever member banks are required to obtain reports from affiliates, or whenever affiliates of member banks are required to submit to examination, the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, as the case may be, may waive such requirements with respect to any such report or examination of any affiliate if in the judgment of the said Board or Comptroller, respectively, such report or examination is not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank.

(Dec. 23, 1913, ch. 6, §21 (par.), as added Aug. 23, 1935, ch. 614, title III, §325, 49 Stat. 715.)

EDITORIAL NOTES

CODIFICATION

This section was not enacted as part of R.S. §5240 which comprises this subchapter. Act Dec. 23, 1913, derived from R.S. §5240.

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.

SUBCHAPTER XVI—CIVIL LIABILITY OF FEDERAL RESERVE AND MEMBER BANKS, SHAREHOLDERS, AND OFFICERS

§501. Liability of Federal reserve or member bank for certifying check when amount of deposit was inadequate

It shall be unlawful for any officer, director, agent, or employee of any Federal reserve bank, or any member bank as defined in this chapter, to certify any check drawn upon such Federal reserve bank or member bank unless the person, firm, or corporation drawing the check has on deposit with such Federal reserve bank or member bank, at the time such check is certified, an amount of money not less than the amount specified in such check. Any check so certified by a duly authorized officer, director, agent, or employee shall be a good and valid obligation against such Federal reserve bank or member bank; but the act of any officer, director, agent, or employee of any such Federal reserve bank or member bank in violation of this section shall, in the discretion of the Board of Governors of the Federal Reserve System, subject such Federal reserve bank to the penalties imposed by subsection (h) of section 248 of this title, and shall subject such member banks, if a national bank, to the liability and proceedings on the part of the Comptroller of the Currency provided for in section 192 of this title, and shall, in the discretion of the Board of Governors of the Federal Reserve System, subject any other member bank to the penalties imposed by subchapter VIII of chapter 3 of this title for the violation of any of the provisions of this chapter.

(R.S. §5208; Sept. 26, 1918, ch. 177, §7, 40 Stat. 972; Feb. 25, 1927, ch. 191, §12, 44 Stat. 1231; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

REFERENCES IN TEXT

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

Subchapter VIII of chapter 3 of this title, referred to in text, was in the original "section nine of said Federal reserve Act". Section 9 is classified generally to subchapter VIII (§321 et seq.) of chapter 3 of this title.

CODIFICATION

R.S. §5208 derived from act Mar. 3, 1869, ch. 135, 15 Stat. 335.

The last sentence of R.S. §5208, as amended, which provided penalties for certification of certain checks, was repealed by section 21 of act June 25, 1948, ch. 645, 62 Stat. 862, 865, and the provisions thereof were reenacted as section 1004 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1927—Act Feb. 25, 1927, substituted "deposited in the bank of the drawer thereof" after "regularly" in last sentence.

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.

§501a. Forfeiture of franchise of national banks for failure to comply with provisions of this chapter

Should any national banking association in the United States now organized fail within one year after December 23, 1913, to become a member bank or fail to comply with any of the provisions of this chapter applicable thereto, all of the rights, privileges, and franchises of such association granted to it under the national-bank Act [12 U.S.C. 21 et seq.], or under the provisions of this chapter, shall be thereby forfeited. Any noncompliance with or violation of this chapter shall, however, be determined and adjudged by any court of the United States of competent jurisdiction in a suit brought for that purpose in the district or territory in which such bank is located, under direction of the Board of Governors of the Federal Reserve System, by the Comptroller of the Currency in his own name before the association shall be declared dissolved. In cases of such noncompliance or violation, other than the failure to become a member bank under the provisions of this chapter, every director who participated in or assented to the same shall be held liable in his personal or individual capacity for all damages which said bank, its shareholders, or any other person shall have sustained in consequence of such violation.

Such dissolution shall not take away or impair any remedy against such corporation, its stockholders, or officers, for any liability or penalty which shall have been previously incurred.

(Dec. 23, 1913, ch. 6, §2 (pars.), 38 Stat. 252; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

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.

The national-bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

CODIFICATION

Section is comprised of the sixth and seventh pars. of section 2 of act Dec. 23, 1913. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 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.

§502. Liability of shareholders of Federal reserve banks on contracts, etc.

The shareholders of every Federal reserve bank shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such bank to the extent

of the amount of their subscriptions to such stock at the par value thereof in addition to the amount subscribed, whether such subscriptions have been paid up in whole or in part under the provisions of this chapter.

(Dec. 23, 1913, ch. 6, §2 (par.), 38 Stat. 252.)

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 the fourth par. of section 2 of act Dec. 23, 1913. For classification of other pars. of section 2 of this Act, see Codification note set out under section 222 of this title.

§503. Liability of directors and officers of member banks

If the directors or officers of any member bank shall knowingly violate or permit any of the agents, officers, or directors of any member bank to violate any of the provisions of sections 375, 375a, 375b, and 376 of this title or regulations of the board made under authority thereof, or any of the provisions of sections 217, 218, 219, 220,¹ 655, 1005, 1014, 1906, or 1909 of title 18, every director and officer participating in or assenting to such violation shall be held liable in his personal and individual capacity for all damages which the member bank, its shareholders, or any other persons shall have sustained in consequence of such violation.

(Dec. 23, 1913, ch. 6, §22(f), as added Sept. 26, 1918, ch. 177, §5, 40 Stat. 971; amended Sept. 3, 1954, ch. 1263, §28, 68 Stat. 1236.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 217, 218, 219, and 220 of title 18, referred to in text, were renumbered sections 212, 213, 214, and 215 of title 18, respectively, by Pub. L. 87-849, §1(d), Oct. 23, 1962, 76 Stat. 1125. Sections 212 and 213 of title 18, as redesignated, were subsequently repealed by Pub. L. 108-198, §2(a), Dec. 19, 2003, 117 Stat. 2899.

CODIFICATION

In text, "sections 375, 375a, 375b, and 376 of this title" was in the original "this section", meaning section 22 of act Dec. 23, 1913, which was also classified to sections 593 to 599 of this title. Such sections were repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948, and the provisions thereof were reenacted as sections 217, 218, 219, 220, 655, 1005, 1014, 1906, and 1909 of Title 18, Crimes and Criminal Procedure. Reference to such repealed sections was omitted from the text in view of act Sept. 3, 1954, which amended the text by incorporating therein the reference to the sections of Title 18. The text of section 375 of this title was struck out by Pub. L. 111-203, title VI, §615(b), July 21, 2010, 124 Stat. 1615.

AMENDMENTS

1954—Act Sept. 3, 1954, inserted "or any of the provisions of sections 217, 218, 219, 220, 655, 1005, 1014, 1906, or 1909 of title 18,".

¹ [*See References in Text note below.*](#)

§504. Civil money penalty

(a) First tier

Any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who, violates any provision of section 371c, 371c-1, 375, 375a, 375b, 376, or 503 of this title, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(b) Second tier

Notwithstanding subsection (a), any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who ¹

(1)(A) commits any violation described in subsection (a);

(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

(C) breaches any fiduciary duty;

(2) which violation, practice, or breach—

(A) is part of a pattern of misconduct;

(B) causes or is likely to cause more than a minimal loss to such member bank; or

(C) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

(c) Third tier

Notwithstanding subsections (a) and (b), any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who—

(1) knowingly—

(A) commits any violation described in subsection (a);

(B) engages in any unsafe or unsound practice in conducting the affairs of such credit union;

² or

(C) breaches any fiduciary duty; and

(2) knowingly or recklessly causes a substantial loss to such credit union ² or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

(d) Maximum amounts of penalties for any violation described in subsection (c)

The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

(1) in the case of any person other than a member bank, an amount not to exceed \$1,000,000; and

(2) in the case of a member bank, an amount not to exceed the lesser of—

(A) \$1,000,000; or

(B) 1 percent of the total assets of such member bank.

(e) Assessment; etc.

Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected ³ by

(1) in the case of a national bank, by the Comptroller of the Currency; and

(2) in the case of a State member bank, by the Board,

in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title for penalties imposed (under such section) and any such assessment shall be subject to the provisions of

such section.

(f) Hearing

The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this section.

(g) Disbursement

All penalties collected under authority of this paragraph shall be deposited into the Treasury.

(h) "Violate" defined

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(i) Regulations

The Comptroller of the Currency and the Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

(m) ⁴ Notice under this section after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after August 9, 1989).

(Dec. 23, 1913, ch. 6, §29, as added Pub. L. 95-630, title I, §101, Nov. 10, 1978, 92 Stat. 3641; amended Pub. L. 97-320, title IV, §424(c), (d)(1), (e), Oct. 15, 1982, 96 Stat. 1523; Pub. L. 101-73, title IX, §§905(f), 907(g), Aug. 9, 1989, 103 Stat. 461, 470.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "section 371c, 371c-1, 375, 375a, 375b, 376, or 503 of this title" was in the original "section 22, 23A, or 23B", meaning section 22, 23A, or 23B of the Federal Reserve Act. Sections 23A and 23B are classified to sections 371c and 371c-1, respectively, of this title. Subsections (d) to (h) of section 22 are classified to sections 375, 375a, 375b, 376, and 503 of this title. The text of section 375 of this title was struck out by Pub. L. 111-203, title VI, §615(b), July 21, 2010, 124 Stat. 1615.

AMENDMENTS

1989—Pub. L. 101-73, §907(g), amended section generally, substituting provisions of subsecs. (a) to (i) for former provisions which related to the following: subsec. (a), making loans, extensions of credit, purchases of securities, etc., respecting affiliates, executive officers, etc.; subsec. (b), amount of penalty; subsec. (c), opportunity for hearing; subsec. (d), review by United States court of appeals; subsec. (e), action by Attorney General for failure to pay assessment; subsec. (f), promulgation of regulations; and subsec. (g), penalties covered into Treasury of United States.

Subsec. (m). Pub. L. 101-73, §905(f), added subsec. (m).

1982—Subsec. (a). Pub. L. 97-320, §424(c), (d)(1), inserted proviso giving agency discretionary authority to compromise, etc., any civil money penalty imposed under its authority, and substituted "may be assessed" for "shall be assessed", respectively.

Subsec. (d). Pub. L. 97-320, §424(e), substituted "twenty days from the service" for "ten days from the date".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 907(g) of Pub. L. 101-73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101-73, set out as a note under section 93 of this title.

EFFECTIVE DATE

Section effective with respect to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95-630 set out as an Effective Date of 1978 Amendment note under section 93 of this title.

¹ *So in original. Probably should be followed by a dash.*

² *So in original. Probably should be "such member bank".*

³ *So in original. Probably should be followed by a dash rather than "by".*

⁴ *So in original. No subsecs. (j) to (l) have been enacted.*

§505. Civil money penalty

(1) First tier

Any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(2) Second tier

Notwithstanding paragraph (1), any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who—

- (A)(i) commits any violation described in paragraph (1);
- (ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or
- (iii) breaches any fiduciary duty;
- (B) which violation, practice, or breach—
 - (i) is part of a pattern of misconduct;
 - (ii) causes or is likely to cause more than a minimal loss to such member bank; or
 - (iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

(3) Third tier

Notwithstanding paragraphs (1) and (2), any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who—

- (A) knowingly—
 - (i) commits any violation described in paragraph (1);
 - (ii) engages in any unsafe or unsound practice in conducting the affairs of such member bank;
- or
- (iii) breaches any fiduciary duty; and

(B) knowingly or recklessly causes a substantial loss to such member bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

(4) Maximum amounts of penalties for any violation described in paragraph (3)

The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

(A) in the case of any person other than a member bank, an amount not to exceed \$1,000,000; and

(B) in the case of a member bank, an amount not to exceed the lesser of—

(i) \$1,000,000; or

(ii) 1 percent of the total assets of such member bank.

(5) Assessment; etc.

Any penalty imposed under paragraph (1), (2), or (3) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(6) Hearing

The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this section.

(7) Disbursement

All penalties collected under authority of this section shall be deposited into the Treasury.

(8) "Violate" defined

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(9) Regulations

The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

(Dec. 23, 1913, ch. 6, §19(l), formerly §19(j), as added Pub. L. 95-630, title I, §102, Nov. 10, 1978, 92 Stat. 3642; renumbered §19(l), Pub. L. 96-221, title I, §105(f), Mar. 31, 1980, 94 Stat. 140; amended Pub. L. 97-320, title IV, §424(a), (d)(2), (e), Oct. 15, 1982, 96 Stat. 1522, 1523; Pub. L. 101-73, title IX, §907(h), Aug. 9, 1989, 103 Stat. 472.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in pars. (1) and (8), means section 19 of act Dec. 23, 1913, which is classified to sections 142, 371b, 371b-1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

AMENDMENTS

1989—Pub. L. 101-73 amended section generally, revising and restating as pars. (1) to (9) provisions of former pars. (1) to (7) which related to civil penalty respecting depository, reserve, etc., requirements; amount; hearing; review; action by Attorney General; and regulations.

1982—Par. (1). Pub. L. 97-320, §424(a), (d)(2), inserted proviso giving Board discretionary authority to compromise, etc., any civil money penalty imposed under this section, and substituted "may be assessed" for "shall be assessed".

Par. (4). Pub. L. 97-320, §424(e), substituted "twenty days from the service" for "ten days from the date".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101-73, set out as a note under section 93 of this title.

EFFECTIVE DATE

Section effective with respect to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95-630 set out as an Effective Date of 1978 Amendment note under section 93 of this title.

§506. Notice after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after August 9, 1989).

(Dec. 23, 1913, ch. 6, §19(m), as added Pub. L. 101-73, title IX, §905(g), Aug. 9, 1989, 103 Stat. 461.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in text, means section 19 of act Dec. 23, 1913, which is classified to sections 142, 371b, 371b-1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

SUBCHAPTER XVII—RESERVE-BANK BRANCHES

§521. Reserve-bank branches; establishment; directors; discontinuance of branches; approval for erection of branch bank building

The Board of Governors of the Federal Reserve System may permit or require any Federal reserve bank to establish branch banks within the Federal reserve district in which it is located or within the district of any Federal reserve bank which may have been suspended. Such branches, subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, shall be operated under the supervision of a board of directors to consist of not more than seven nor less than three directors, of whom a majority of one shall be appointed by the Federal reserve bank of the district, and the remaining directors by the Board of Governors of the Federal Reserve System. Directors of branch banks shall hold office during the pleasure of the Board of Governors of the Federal Reserve System.

The Board of Governors of the Federal Reserve System may at any time require any Federal reserve bank to discontinue any branch of such Federal reserve bank established under this section.

The Federal reserve bank shall thereupon proceed to wind up the business of such branch bank, subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe.

No Federal Reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character or to authorize the erection of any such building, except with the approval of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §3, 38 Stat. 253; June 21, 1917, ch. 32, §1, 40 Stat. 232; Feb. 25, 1927, ch. 191, §19, 44 Stat. 1234; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 87-622, §2, Aug. 31, 1962, 76 Stat. 418.)

EDITORIAL NOTES

AMENDMENTS

1962—Pub. L. 87-622 added par. providing that no Federal Reserve Bank shall have authority to enter into any contract for the erection of a branch bank building or to authorize the erection of such building, except with the approval of the Board of Governors of the Federal Reserve System.

1927—Act Feb. 25, 1927, added par. authorizing the Federal Reserve Board to discontinue and wind up the business of branch banks.

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.

§522. Federal Reserve branch bank buildings

No Federal Reserve bank may authorize the acquisition or construction of any branch building, or enter into any contract or other obligation for the acquisition or construction of any branch building, without the approval of the Board.

(Dec. 23, 1913, ch. 6, §10 (par.), as added June 3, 1922, ch. 205, 42 Stat. 622; amended Feb. 6, 1923, ch. 60, 42 Stat. 1223; July 30, 1947, ch. 352, 61 Stat. 520; May 29, 1953, ch. 87, 67 Stat. 41; Pub. L. 87-622, §1, Aug. 31, 1962, 76 Stat. 418; Pub. L. 93-495, title I, §108, Oct. 28, 1974, 88 Stat. 1505; Pub. L. 102-491, §2, Oct. 24, 1992, 106 Stat. 3144.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of ninth paragraph of act Dec. 23, 1913, §10, as added June 3, 1922. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

AMENDMENTS

1992—Pub. L. 102-491 amended section generally. Prior to amendment, section read as follows: "No Federal reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character, or to authorize the erection of any such building, if the cost of the building proper, exclusive of the cost of the vaults, permanent equipment, furnishings, and fixtures, is in excess of \$250,000: *Provided*, That nothing herein shall apply to any building under construction prior to June 3, 1922: *Provided further*, That the cost as above specified shall not be so limited as long as the aggregate of such costs which are incurred by all Federal Reserve banks for branch bank buildings with the approval of the Board of Governors after July 30, 1947 does not exceed \$140,000,000."

1974—Pub. L. 93-495 increased from \$60,000,000 to \$140,000,000 the limitation on aggregate costs of constructing branch bank buildings.

1962—Pub. L. 87-622 increased from \$30,000,000 to \$60,000,000 the limitation on aggregate costs of constructing branch bank buildings.

1953—Act May 29, 1953, increased from \$10,000,000 to \$30,000,000 the limitation on aggregate cost of constructing branch bank buildings.

1947—Act July 30, 1947, inserted proviso exempting limitation on cost of construction where aggregate costs do not exceed \$10,000,000.

CHAPTER 4—TAXATION

SUBCHAPTER I—FEDERAL RESERVE BANKS

Sec.

531. Exemption from taxation.

SUBCHAPTER II—NATIONAL BANK CIRCULATION

541. Tax on circulating notes generally.

542 to 547. Omitted or Repealed.

SUBCHAPTER III—NATIONAL BANK SHARES

548. State taxation.

SUBCHAPTER IV—STATE BANK CIRCULATION

561 to 570. Omitted.

SUBCHAPTER I—FEDERAL RESERVE BANKS

§531. Exemption from taxation

Federal reserve banks, including the capital stock and surplus therein and the income derived therefrom shall be exempt from Federal, State, and local taxation, except taxes upon real estate.

(Dec. 23, 1913, ch. 6, §7(c), 38 Stat. 258; Mar. 3, 1919, ch. 101, §1, 40 Stat. 1314; Pub. L. 103–66, title III, §3002(c)(2), Aug. 10, 1993, 107 Stat. 338.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of subsec. (c) [formerly third undesignated par.] of section 7 of act Dec. 23, 1913. Subsec. (a) of section 7 and subsec. (b) [enacted by Pub. L. 106–113, div. B, §1000(a)(5) [title III, §302(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A–304] of section 7 are classified to section 289 of this title. Another subsec. (b) of section 7 is classified to section 290 of this title.

AMENDMENTS

1993—Pub. L. 103–66 inserted section catchline.

SUBCHAPTER II—NATIONAL BANK CIRCULATION

§541. Tax on circulating notes generally

In lieu of all existing taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one-half of 1 per centum each half year upon the average amount of its notes in circulation.

(R.S. §5214; Mar. 3, 1883, ch. 121, §1, 22 Stat. 488.)

EDITORIAL NOTES

CODIFICATION

R.S. §5214 derived from act June 3, 1864, ch. 106, §41, 13 Stat. 111, which was part of the National Bank Act. See section 38 of this title.

§542. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Mar. 14, 1900, ch. 41, §13, 31 Stat. 49, related to tax on circulating notes secured by 2 per centum bonds.

§543. Repealed. Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068

Section, act Dec. 21, 1905, ch. 3, §1, 34 Stat. 5, related to tax on circulating notes secured by Panama Canal 2 per centum bonds and rights and privileges of such bonds.

§§544 to 547. Omitted

EDITORIAL NOTES

CODIFICATION

Section 544, R.S. §5215; act Mar. 3, 1883, ch. 121, §1, 22 Stat. 488, related to half-yearly return of circulation.

Section 545, R.S. §5216; act Mar. 3, 1883, ch. 121, §1, 22 Stat. 488, related to penalty for failure to make return.

Section 546, R.S. §5217, related to enforcing tax on circulation.

Section 547, R.S. §5218; act June 10, 1921, ch. 18, §304, 42 Stat. 24, related to refunding excess tax.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPEALS

Effective July 1, 1935, the permanent appropriation provided for in former section 547 of this title was repealed by act June 26, 1934, ch. 756, §2, 48 Stat. 1226, such act authorizing in lieu thereof, an annual appropriation from the general fund of the Treasury.

REDEMPTION OF BONDS; TERMINATION OF CIRCULATING NOTES

In a communication from the Treasury Department dated February 17, 1941, it was stated "The Secretary of the Treasury called for redemption the only outstanding issues of United States bonds bearing the circulation privilege as follows:

"2% Consols. of 1930, as of July 1, 1935,

"2% Panama Canal bonds of 1916-36, and

"2% Panama Canal bonds of 1918-38, as of August 1, 1935.

"The retirement of these issues automatically put an end to National Bank note circulation and the collection of the tax thereon."

SUBCHAPTER III—NATIONAL BANK SHARES

§548. State taxation

For the purposes of any tax law enacted under authority of the United States or any State, a national bank shall be treated as a bank organized and existing under the laws of the State or other jurisdiction within which its principal office is located.

(R.S. §5219; Mar. 4, 1923, ch. 267, 42 Stat. 1499; Mar. 25, 1926, ch. 88, 44 Stat. 223; Pub. L. 91-156, §§1(a), 2(a), Dec. 24, 1969, 83 Stat. 434.)

EDITORIAL NOTES

CODIFICATION

R.S. §5219 derived from act June 3, 1864, ch. 106, §41, 13 Stat. 111, which was the National Bank Act, and act Feb. 10, 1868, ch. 7, 15 Stat. 34. See section 38 of this title.

AMENDMENTS

1969—Pub. L. 91-156, §2(a), substituted provisions directing that national banks, for purposes of both Federal and State tax laws, be treated as banks organized and existing under the laws of the State or other jurisdiction within which each bank's principal office is located for provisions placing restrictions on the taxation of national bank shares and, for the period until the effective date of such amendment, set out interim provisions regarding intangible personal property taxes of States and local governments on national banks.

Pub. L. 91-156, §1(a), added par. 5.

1926—Act Mar. 25, 1926, among other changes inserted "on their net income" in cl. (3) of former opening par., and added cl. (4) thereto, and inserted proviso in former subsec. 1(c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-156, §1(b), Dec. 24, 1969, 83 Stat. 434, provided that: "The amendment made by subsection (a) of this section [setting out interim provisions regarding intangible personal property taxes of State and local governments on national banks] shall be effective from the date of enactment of this Act [Dec. 24, 1969] until the effective date [Jan. 1, 1973] of the amendment made by section 2(a) of this Act [removing restrictions on the taxation of national bank shares and directing that national banks, for purposes of both Federal and State tax laws, be treated as banks organized and existing under the laws of the State or other jurisdiction within which each bank's principal office is located]."

Pub. L. 91-156, §2(b), Dec. 24, 1969, 83 Stat. 434, as amended by Pub. L. 92-213, §4(a), Dec. 22, 1971, 85 Stat. 775, provided that: "The amendment made by subsection (a) [removing all special restriction on the taxation of national bank shares by State and local taxing authorities] becomes effective on January 1, 1973".

SAVINGS PROVISION

Pub. L. 91-156, §3, Dec. 24, 1969, 83 Stat. 435, as amended by Pub. L. 92-213, §4(a), Dec. 22, 1971, 85 Stat. 775, provided that:

"(a) Except as provided in subsection (b) of this section, prior to January 1, 1973, no tax may be imposed on any class of banks by or under authority of any State legislation in effect prior to the enactment of this Act [Dec. 24, 1969] unless

"(1) the tax was imposed on that class of banks prior to the enactment of this Act [Dec. 24, 1969], or

"(2) the imposition of the tax is authorized by affirmative action of the State legislature after the enactment of this Act [Dec. 24, 1969].

"(b) The prohibition of subsection (a) of this section does not apply to

"(1) any sales tax or use tax complementary thereto,

"(2) any tax (including a documentary stamp tax) on the execution, delivery, or recordation of documents, or

"(3) any tax on tangible personal property (not including cash or currency), or for any license, registration, transfer, excise or other fee or tax imposed on the ownership, use or transfer of tangible

personal property,
imposed by a State which does not impose a tax, or an increased rate of tax, in lieu thereof."

**STATE TAXATION OF FEDERALLY INSURED FINANCIAL INSTITUTIONS; STUDY AND
REPORT BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS**

Pub. L. 93-100, §7, Aug. 16, 1973, 87 Stat. 347, eff. on the 30th day after Aug. 16, 1973, as amended by Pub. L. 93-495, title I, §114, Oct. 28, 1974, 88 Stat. 1507; Pub. L. 94-222, §§1, 4, Feb. 27, 1976, 90 Stat. 197, 198, eff. Jan. 1, 1976, provided that it was to be cited as the "State Taxation of Depositories Act"; that it was applicable to taxable years or periods beginning on or after Aug. 16, 1973; that an efficient banking system and the free flow of commerce would be furthered by clarification of principles as to State taxation of interstate transactions of banks and other depositories; that taxes measured by income or receipts or other "doing business" taxes in states where depositories do not have their principal offices, should be deferred until uniform and equitable methods are developed; that no such taxes should be imposed on or after Aug. 16, 1973 and before Sept. 12, 1976; that "insured depository" means any bank or institution insured under the Federal Deposit Insurance Act or the Federal Savings and Loan Insurance Corporation or any member institution of a Federal home loan bank; that "State" means the several States of the United States, the District of Columbia, the Virgin Islands, Guam, and American Samoa; and that the Advisory Commission on Intergovernmental Relations should study the matter of State "doing business" taxes and report to Congress no later than Dec. 31, 1974.

**STUDY BY BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM; REPORT BY JUNE 22,
1972**

Pub. L. 92-213, §4(b), Dec. 22, 1971, 85 Stat. 775, required the Board of Governors of the Federal Reserve System to make a study of the probable impact on the revenues of State and local governments of the extension until Jan. 1, 1973, under subsection (a), of the termination date of interim provisions regarding intangible personal property taxes of State and local governments on national banks and to report the results of its study to the Congress not later than six months after Dec. 22, 1971.

**STUDY BY BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM; REPORT BY DEC. 31,
1970**

Pub. L. 91-156, §4, Dec. 24, 1969, 83 Stat. 435, provided that the Board of Governors of the Federal Reserve System make a study to determine the probable impact on the banking system and other economic effects of the changes in existing law made by section 2 of this Act [amending this section] and that such study include the Board's recommendation as to what additional Federal legislation may be needed to reconcile the promotion of economic efficiency in the banking system with the achievement of effectiveness and local autonomy in meeting the fiscal needs of the States and their political subdivisions. The results of the Board's study were to be made to Congress not later than December 31, 1970.

SUBCHAPTER IV—STATE BANK CIRCULATION

§§561 to 570. Omitted

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPEALS

Provisions of these sections were incorporated in Title 26, Internal Revenue Code, as follows:

This Title	Title 26
561	1905, I.R.C. 1939; 4882, I.R.C. 1954
562	1900(b)(2), I.R.C. 1939; 4881, I.R.C. 1954

563	1900(b)(2) I.R.C. 1939; 4881, I.R.C. 1954
564	1902(b), I.R.C. 1939; 6151(a), I.R.C. 1954
565	1901, I.R.C. 1939; 4883, I.R.C. 1954
566	1902(a)(1)(2), I.R.C. 1939; 6011(a), 6065(a), 6071, 6091(b)(1), (2), I.R.C. 1954
567	1903, 1904, I.R.C. 1939; 4885, I.R.C. 1954
568	1902(a)(4), I.R.C. 1939; omitted, I.R.C. 1954
569	1906, I.R.C. 1939; 4883, I.R.C. 1954
570	3798, I.R.C. 1939; 7507, I.R.C. 1954

Insofar as they related exclusively to internal revenue they were repealed by section 4(a) of enacting section of 1939 Internal Revenue Code, preceding subtitle A of Title 26, I.R.C. 1939.

CHAPTER 5—CRIMES AND OFFENSES

SUBCHAPTER I—IN GENERAL

Sec.

581. Repealed.

582. Receipt of United States or bank notes as collateral.

583 to 588d. Repealed.

SUBCHAPTER II—FEDERAL RESERVE AND MEMBER BANKS, OFFICERS, EMPLOYEES, AND EXAMINERS

591 to 599. Repealed.

SUBCHAPTER I—IN GENERAL

§581. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, R.S. §5187, related to unauthorized issue of circulating notes. See section 334 of Title 18, Crimes and Criminal Procedure.

§582. Receipt of United States or bank notes as collateral

No national banking association shall hereafter offer or receive United States notes or national-bank notes as security or as collateral security for any loan of money, or for a consideration agree to withhold the same from use, or offer or receive the custody or promise of custody of such notes as security, or as collateral security, or consideration for any loan of money. Any association offending against the provisions of this section shall be deemed guilty of a misdemeanor and shall be fined not more than \$1,000 and a further sum equal to one-third of the money so loaned. The officer

or officers of any association who shall make any such loan shall be liable for a further sum equal to one-quarter of the money loaned; and any fine or penalty incurred by a violation of this section shall be recoverable for the benefit of the party bringing such suit.

(R.S. §5207.)

EDITORIAL NOTES

CODIFICATION

R.S. §5207 derived from act Feb. 19, 1869, ch. 32, 15 Stat. 270.

§§583 to 588d. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 583, R.S. §5243; act Aug. 23, 1935, ch. 614, title III, §318, 49 Stat. 712, related to use of words "National", "Federal", or "United States". See section 709 of Title 18, Crimes and Criminal Procedure.

Section 584, act May 24, 1926, ch. 377, §1, 44 Stat. 628, related to spurious advertisements or representations as to Federal farm loans and bonds. See section 709 of Title 18, Crimes and Criminal Procedure.

Section 585, acts May 24, 1926, ch. 377, §2, 44 Stat. 628; Aug. 23, 1935, ch. 614, title III, §332, 49 Stat. 719, related to use of words "Federal", "United States", "Deposit Insurance", "reserve". See section 709 of Title 18, Crimes and Criminal Procedure.

Section 586, act May 24, 1926, ch. 377, §3, 44 Stat. 628, related to false advertisements or representations as to membership in Federal Reserve System. See section 709 of Title 18, Crimes and Criminal Procedure.

Section 587, acts May 24, 1926, ch. 377, §4, 44 Stat. 628; Aug. 23, 1935, ch. 614, title III, §332, 49 Stat. 719, related to penalties for violations of former sections 584–586. See section 709 of Title 18, Crimes and Criminal Procedure.

Section 588, act May 24, 1926, ch. 377, §5, 44 Stat. 629, related to separability of former sections 584 to 587.

Section 588a, acts May 18, 1934, ch. 304, §1, 48 Stat. 783; Aug. 23, 1935, ch. 614, title III, §333, 49 Stat. 720, defined "bank". See section 2113 of Title 18, Crimes and Criminal Procedure.

Section 588b, acts May 18, 1934, ch. 304, §2, 48 Stat. 783; Aug. 24, 1937, ch. 747, 50 Stat. 749; June 29, 1940, ch. 455, 54 Stat. 695, related to robbery of bank. See section 2113 of Title 18, Crimes and Criminal Procedure.

Section 588c, act May 18, 1934, ch. 304, §3, 48 Stat. 783, related to killing or kidnapping as incident to robbery of a bank. See section 2113 of Title 18, Crimes and Criminal Procedure.

Section 588d, act May 18, 1934, ch. 304, §4, 48 Stat. 783, related to jurisdiction of bank crimes. See section 3231 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER II—FEDERAL RESERVE AND MEMBER BANKS, OFFICERS, EMPLOYEES, AND EXAMINERS

§§591 to 599. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 591, R.S. §5208; acts July 12, 1882, ch. 290, §13, 22 Stat. 166; Sept. 26, 1918, ch. 177, §7, 40 Stat. 972; Feb. 25, 1927, ch. 191, §12, 44 Stat. 1231, related to unlawful certification of checks. See section 1004 of Title 18, Crimes and Criminal Procedure.

Section 592, R.S. §5209; acts Sept. 26, 1918, ch. 177, §7, 40 Stat. 972; Aug. 23, 1935, ch. 614, title III, §316, 49 Stat. 712, related to embezzlement. See sections 334, 656, and 1005 of Title 18, Crimes and Criminal Procedure.

Section 593, acts Dec. 23, 1913, ch. 6, §22(a), 38 Stat. 272; Sept. 26, 1918, ch. 177, §5, 40 Stat. 970; Feb. 25, 1927, ch. 191, §15, 44 Stat. 1232; Aug. 23, 1935, ch. 614, title III, §326(a), 49 Stat. 715, related to loans and gratuities.

Section 594, acts Dec. 23, 1913, ch. 6, §22(b), 38 Stat. 272; Sept. 26, 1918, ch. 177, §5, 40 Stat. 970; Aug. 23, 1935, ch. 614, title III, §326(b), 49 Stat. 716, related to bank examiners performing other services for compensation and disclosure of information. See sections 1906 and 1909 of Title 18, Crimes and Criminal Procedure.

Section 595, acts Dec. 23, 1913, ch. 6, §22(c), 38 Stat. 272; June 21, 1917, ch. 32, §11, 40 Stat. 240; Sept. 26, 1918, ch. 177, §5, 40 Stat. 970, related to officers and employees accepting commissions and gifts for procuring loans. See section 215 of Title 18, Crimes and Criminal Procedure.

Section 596, act Dec. 23, 1913, ch. 6, §22(h), as added June 19, 1934, ch. 653, §3, 48 Stat. 1107, related to false statements or overvaluation of securities to secure loan. See section 1014 of Title 18, Crimes and Criminal Procedure.

Section 597, act Dec. 23, 1913, ch. 6, §22(i), as added June 19, 1934, ch. 653, §3, 48 Stat. 1107, related to embezzlement, etc. See sections 655 and 1005 of Title 18, Crimes and Criminal Procedure.

Section 598, act Dec. 23, 1913, ch. 6, §22(j), as added June 19, 1934, ch. 653, §3, 48 Stat. 1107, related to application of former sections 202 to 207 of Title 18, Crimes and Criminal Procedure.

Section 599, act Dec. 23, 1913, ch. 6, §22(k), as added June 19, 1934, ch. 653, §3, 48 Stat. 1107, related to fees, commissions, and bonuses in connection with loans. See section 214 of Title 18, Crimes and Criminal Procedure.

CHAPTER 6—FOREIGN BANKING

SUBCHAPTER I—ESTABLISHMENT BY NATIONAL BANKS OF FOREIGN BRANCHES AND INVESTMENTS IN BANKS DOING FOREIGN BUSINESS

Sec.

- 601. Authorization; conditions and regulations.
- 602. Reports and examinations.
- 603. Restrictions imposed by Board of Governors of the Federal Reserve System on banks purchasing stock in corporations doing foreign business.
- 604. Accounts of foreign branches; profit and loss.
- 604a. Regulations authorizing exercise by foreign branches of usual powers of local banks; restrictions.
- 605. Repealed.

SUBCHAPTER II—ORGANIZATION OF CORPORATIONS TO DO FOREIGN BANKING

- 611. Formation authorized; fiscal agents; depositaries in insular possessions.
- 611a. Statement of purposes; rules and regulations.
- 612. Articles of association; contents.
- 613. Signing of articles of association; forwarding to and filing by Board of Governors of the Federal Reserve System; organization certificate; contents.
- 614. Organization certificate; acknowledgment; forwarding to, filing, and approval by Board of Governors of the Federal Reserve System; permit to do business; body corporate; name; seal; corporate succession; contracts; suits; directors, officers, and employees; bylaws.
- 615. Powers of corporation.
- 616. Place of carrying on business; when business may be begun.
- 617. Engaging in commerce or trade in commodities; price fixing; forfeiture of charter; acts forbidden to directors, officers, agents, or employees.
- 618. Capital stock; amount; when paid in.
- 619. Capital stock; by whom held; ownership of capital stock by foreign bank.
- 620. Members of Board of Governors of the Federal Reserve System without interest in corporation.
- 621. Liability of shareholders on unpaid subscriptions; membership of corporation in Federal reserve bank prohibited.
- 622. Forfeiture of rights and privileges; dissolution; liability of directors and officers.
- 623. Voluntary liquidation.

- 624. Appointment of receiver or conservator.
- 625. Stockholders' meetings; books and records; reports; examination.
- 626. Dividends; surplus fund.
- 627. State taxation.
- 628. Extension of corporate existence.
- 629. Conversion of banking corporations into Federal corporations; procedure.
- 630. Offenses by officers of corporation; punishment.
- 631. False representations as to liability of United States for acts of corporation; punishment.
- 632. Jurisdiction of United States courts; disposition by banks of foreign owned property.
- 633. Potential liability on foreign accounts.

SUBCHAPTER I—ESTABLISHMENT BY NATIONAL BANKS OF FOREIGN BRANCHES AND INVESTMENTS IN BANKS DOING FOREIGN BUSINESS

§601. Authorization; conditions and regulations

Any national banking association possessing a capital and surplus of \$1,000,000 or more may file application with the Board of Governors of the Federal Reserve System for permission to exercise, upon such conditions and under such regulations as may be prescribed by the said board, the following powers:

First. To establish branches in foreign countries or dependencies or insular possessions of the United States for the furtherance of the foreign commerce of the United States, and to act if required to do so as fiscal agents of the United States.

Second. To invest an amount not exceeding in the aggregate 10 per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the United States or of any State thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Third. To acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Governors of the Federal Reserve System, shall be incidental to the international or foreign business of such foreign bank; and, notwithstanding the provisions of section 371c of this title, to make loans or extensions of credit to or for the account of such bank in the manner and within the limits prescribed by the Board by general or specific regulation or ruling.

Until January 1, 1921, any national banking association, without regard to the amount of its capital and surplus, may file application with the Board of Governors of the Federal Reserve System for permission, upon such conditions and under such regulations as may be prescribed by said board, to invest an amount not exceeding in the aggregate 5 per centum of its paid-in capital and surplus in the stock of one or more corporations chartered or incorporated under the laws of the United States or of any State thereof and, regardless of its location, principally engaged in such phases of international or foreign financial operations as may be necessary to facilitate the export of goods, wares, or merchandise from the United States or any of its dependencies or insular possessions to any foreign country: *Provided, however,* That in no event shall the total investments authorized by this subchapter by any one national bank exceed 10 per centum of its capital and surplus.

Such application shall specify the name and capital of the banking association filing it, the powers applied for, and the place or places where the banking or financial operations proposed are to be carried on. The Board of Governors of the Federal Reserve System shall have power to approve or to reject such application in whole or in part if for any reason the granting of such application is deemed inexpedient, and shall also have power from time to time to increase or decrease the number of places where such banking operations may be carried on.

(Dec. 23, 1913, ch. 6, §25 (pars.), 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 755; Sept. 17, 1919, ch. 60, §§1, 2, 41 Stat. 285, 286; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 89-485, §12(b), July 1, 1966, 80 Stat. 241.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in the proviso to the fifth par., was in the original "this section", meaning section 25 of act Dec. 23, 1913, which is classified to this subchapter (§601 et seq.).

CODIFICATION

Section is comprised of the first three undesignated pars. of section 25 of act Dec. 23, 1913, which comprises this subchapter.

The fourth undesignated par. of section 25 is classified to section 602 of this title.

The fifth undesignated par. of section 25 is classified to section 603 of this title.

The sixth undesignated par. of section 25 is classified to section 604 of this title.

The former seventh undesignated par. was classified to former section 605 of this title.

The seventh undesignated par. is classified to section 604a of this title.

AMENDMENTS

1966—Pub. L. 89-485 struck out "either or both of" before "the following powers" in introductory par. Par. Third. Pub. L. 89-485 added par. Third.

1919—Act Sept. 17, 1919, added par. beginning "Until January 21, 1921" and inserted "financial" in first sentence of last par.

1916—Act Sept. 7, 1916, among other changes, added par. Second, and provisions relating to restrictions on purchasing stock in other banks, investigations as to compliance with regulations, disposal of interest and separation of accounts, etc. which are now contained in section 602 et seq. 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.

STUDY BY SECRETARY OF THE TREASURY OF DISCRIMINATORY PRACTICES BY FOREIGN NATIONS AGAINST UNITED STATES BANKS; REPORT AND RECOMMENDATIONS TO CONGRESS

Pub. L. 95-369, §9(a), formerly §9, Sept. 17, 1978, 92 Stat. 623, renumbered Pub. L. 95-630, title III, §311, Nov. 10, 1978, 92 Stat. 3678, provided that the Secretary of the Treasury conduct a study of discriminatory practices by foreign nations against United States banks and report his findings and recommendations to Congress on or before one year after Sept. 17, 1978, along with a description of efforts taken by the United States to eliminate any foreign laws or practices that discriminate against United States banks or serve as a barrier to the financing of United States exports to any country.

§602. Reports and examinations

Every national banking association operating foreign branches shall be required to furnish information concerning the condition of such branches to the Comptroller of the Currency upon demand, and every member bank investing in the capital stock of banks or corporations described in section 601 of this title shall be required to furnish information concerning the condition of such banks or corporations to the Board of Governors of the Federal Reserve System upon demand, and the Board of Governors of the Federal Reserve System may order special examinations of the said branches, banks, or corporations at such time or times as it may deem best.

(Dec. 23, 1913, ch. 6, §25 (par.), 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 755; Sept. 17, 1919, ch. 60, §3, 41 Stat. 286; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the fourth undesignated par. of section 25 of act Dec. 23, 1913, which comprises this subchapter. For classification of other pars. of section 25 of this Act, see Codification note under section 601 of this title.

AMENDMENTS

1919—Act Sept. 17, 1919, substituted "above" for "subparagraph 2 of the first paragraph of this section" in the original, which for purposes of codification appears in text as a reference to section 601 of this title.

1916—Act Sept. 7, 1916, substituted "operating" for "which shall receive authority to establish foreign branches" and inserted "every member bank investing in the capital stock of banks or corporations described in subsection second of section 601 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.

§603. Restrictions imposed by Board of Governors of the Federal Reserve System on banks purchasing stock in corporations doing foreign business

Before any national bank shall be permitted to purchase stock in any corporation described in section 601 of this title, the said corporation shall enter into an agreement or undertaking with the Board of Governors of the Federal Reserve System to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said board may prescribe for the place or places wherein such business is to be conducted. If at any time the Board of Governors of the Federal Reserve System shall ascertain that the regulations prescribed by it are not being complied with, said board is authorized and empowered to institute an investigation of the matter and to send for persons and papers, subpoena witnesses, and administer oaths in order to satisfy itself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the national bank or banks which may be stockholders therein, to comply with the regulations laid down by the said Board of Governors of the Federal Reserve System, such national banks may be required to dispose of stock holdings in the said corporation upon reasonable notice.

(Dec. 23, 1913, ch. 6, §25 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 755; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the fifth undesignated par. of section 25 of act Dec. 23, 1913, which comprises this subchapter. For classification of other pars. of section 25 of this Act, see Codification note under section 601 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.

§604. Accounts of foreign branches; profit and loss

Every national banking association operating foreign branches shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accrued at each branch as a separate item.

(Dec. 23, 1913, ch. 6, §25 (par.), 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 756.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the sixth undesignated par. of section 25 of act Dec. 23, 1913, which comprises this subchapter. For classification of other pars. of section 25 of this Act, see Codification note under section 601 of this title.

The words "national banking association operating foreign branches" were in the original "such banking association".

AMENDMENTS

1916—Act Sept. 7, 1916, substituted "accrued" for "accruing".

§604a. Regulations authorizing exercise by foreign branches of usual powers of local banks; restrictions

Regulations issued by the Board of Governors of the Federal Reserve System under this subchapter, in addition to regulating powers which a foreign branch may exercise under other provisions of law, may authorize such a foreign branch, subject to such conditions and requirements as such regulations may prescribe, to exercise such further powers as may be usual in connection with the transaction of the business of banking in the places where such foreign branch shall transact business. Such regulations shall not authorize a foreign branch to engage in the general business of producing, distributing, buying or selling goods, wares, or merchandise; nor, except to such limited extent as the Board may deem to be necessary with respect to securities issued by any "foreign state" as defined in section 632 of this title, shall such regulations authorize a foreign branch to engage or participate, directly or indirectly, in the business of underwriting, selling, or distributing securities.

(Dec. 23, 1913, ch. 6, §25 (par.), as added Pub. L. 87-588, Aug. 15, 1962, 76 Stat. 388.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25 of act Dec. 23, 1913, which is classified to this subchapter (§601 et seq.).

CODIFICATION

Section is comprised of the seventh undesignated par. of section 25 of act Dec. 23, 1913, which comprises this subchapter. For classification of other pars. of section 25 of this Act, see Codification note under section 601 of this title.

§605. Repealed. Aug. 23, 1935, ch. 614, title III, §329, 49 Stat. 717

Section, act Dec. 23, 1913, ch. 6, §25 (par.), 38 Stat. 273, as amended by act Sept. 7, 1916, ch. 461, 39 Stat. 755, related to interlocking directors, officers, and employees. See section 19 of Title 15, Commerce and Trade.

Section was comprised of the former seventh undesignated par. of section 25 of act Dec. 23, 1913, which comprises this subchapter. For classification of other pars. of section 25 of this Act, see Codification note under section 601 of this title.

**SUBCHAPTER II—ORGANIZATION OF CORPORATIONS TO DO
FOREIGN BANKING**

§611. Formation authorized; fiscal agents; depositaries in insular possessions

Corporations to be organized for the purpose of engaging in international or foreign banking or other international or foreign financial operations, or in banking or other financial operations in a dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions as provided by this subchapter and to act when required by the Secretary of the Treasury as fiscal agents of the United States, may be formed by any number of natural persons, not less in any case than five: *Provided*, That nothing in this subchapter shall be construed to deny the right of the Secretary of the Treasury to use any corporation organized under this subchapter as depositaries in Panama and the Panama Canal Zone, or other insular possessions and dependencies of the United States.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Feb. 27, 1921, ch. 73, 41 Stat. 1145; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 2517, 60 Stat. 1352; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section is comprised of par. 1 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter.

Par. 2 (undesignated) is classified to section 611a of this title.

Pars. 3 to 5 (undesignated), formerly pars. 2 to 4 (undesignated), respectively, are classified to sections 612 to 614, respectively, of this title.

Pars. 6 and 7 (undesignated), formerly pars. 5 and 6 (undesignated), respectively, are classified to section 615 of this title.

Pars. 8 to 15 (undesignated), formerly pars. 7 to 14 (undesignated), respectively, are classified to sections 616 to 623, respectively, of this title.

Par. (16), formerly par. 16 (undesignated), formerly par. 15 (undesignated), is classified to section 624 of this title.

Pars. 17 to 23 (undesignated), formerly pars. 16 to 22 (undesignated), are classified to sections 625 to 631 of this title.

Words "in the Philippine Islands and" following "Canal Zone, or" were deleted on authority of Proc. No. 2695, which granted independence to the Philippine Islands pursuant to section 1394 of Title 22, Foreign Relations and Intercourse. Proc. No. 2695 is set out as a note under section 1394 of Title 22.

AMENDMENTS

1921—Act Feb. 27, 1921, inserted proviso.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Act Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added by act Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Feb. 27, 1921, ch. 73, 41 Stat. 1145; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 2517, 60 Stat. 1352; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281, which is classified to this subchapter, is popularly known as the "Edge Act".

§611a. Statement of purposes; rules and regulations

The Congress declares that it is the purpose of this subchapter to provide for the establishment of international banking and financial corporations operating under Federal supervision with powers sufficiently broad to enable them to compete effectively with similar foreign-owned institutions in the United States and abroad; to afford to the United States exporter and importer in particular, and to United States commerce, industry, and agriculture in general, at all times a means of financing international trade, especially United States exports; to foster the participation by regional and smaller banks throughout the United States in the provision of international banking and financing services to all segments of United States agriculture, commerce, and industry, and, in particular small business and farming concerns; to stimulate competition in the provision of international banking and financing services throughout the United States; and, in conjunction with each of the preceding purposes, to facilitate and stimulate the export of United States goods, wares, merchandise, commodities, and services to achieve a sound United States international trade position. The Board of Governors of the Federal Reserve System shall issue rules and regulations under this subchapter consistent with and in furtherance of the purposes described in the preceding sentence, and, in accordance therewith, shall review and revise any such rules and regulations at least once every five years, the first such period commencing with the effective date of rules and regulations issued pursuant to section 3(a) of the International Banking Act of 1978, in order to ensure that such purposes are being served in light of prevailing economic conditions and banking practices.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Pub. L. 95–369, §3(b), Sept. 17, 1978, 92 Stat. 608; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

Section 3(a) of the International Banking Act of 1978, referred to in text, is Pub. L. 95–369, §3(a), Sept. 17, 1978, 92 Stat. 608, which is set out below.

CODIFICATION

Section is comprised of par. 2 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ELIMINATION OR MODIFICATION OF RESTRICTIONS LIMITING FOREIGN BANKING; CONGRESSIONAL DECLARATION OF PURPOSE

Pub. L. 95–369, §3(a), Sept. 17, 1978, 92 Stat. 608, provided that: "It is the purpose of this section [adding

this section, amending sections 614, 615, 618, and 619 of this title, and enacting provisions set out as note under section 247 of this title] to eliminate or modify provisions in section 25(a) [now 25A] of the Federal Reserve Act [this subchapter] that (1) discriminate against foreign-owned banking institutions, (2) disadvantage or unnecessarily restrict or limit corporations organized under section 25(a) of the Federal Reserve Act in competing with foreign-owned banking institutions in the United States or abroad or (3) impede the attainment of the Congressional purposes set forth in section 25(a) of the Federal Reserve Act as amended by subsection (b) of this section [adding this section]. In furtherance of such purpose, the Congress believes that the Board should review and revise its rules, regulations, and interpretations issued pursuant to section 25(a) of the Federal Reserve Act to eliminate or modify any restrictions, conditions, or limitations not required by section 25(a) of the Federal Reserve Act, as amended, that (1) discriminate against foreign-owned banking institutions, (2) disadvantage or unnecessarily restrict or limit corporations organized under section 25(a) of the Federal Reserve Act in competing with foreign-owned banking institutions in the United States or abroad, or (3) impede the attainment of the Congressional purposes set forth in section 25(a) of the Federal Reserve Act as amended by subsection (b) of this section. Rules and regulations pursuant to this subsection and section 25(a) of the Federal Reserve Act shall be issued not later than 150 days after the date of enactment of this section [Sept. 17, 1978] and shall be issued in final form and become effective not later than 120 days after they are first issued."

§612. Articles of association; contents

The persons described in section 611 of this title shall enter into articles of association which shall specify in general terms the objects for which the association is formed and may contain any other provisions not inconsistent with law which the association may see fit to adopt for the regulation of its business and the conduct of its affairs.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

The persons described in section 611 of this title, referred to in text, was in the original "Such persons".

CODIFICATION

Section is comprised of par. 3 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

§613. Signing of articles of association; forwarding to and filing by Board of Governors of the Federal Reserve System; organization certificate; contents

Articles of association described in section 612 of this title shall be signed by all of the persons intending to participate in the organization of the corporation and, thereafter, shall be forwarded to the Board of Governors of the Federal Reserve System and shall be filed and preserved in its office. The persons signing the said articles of association shall, under their hands, make an organization certificate which shall specifically state:

First. The name assumed by such corporation, which shall be subject to the approval of the Board of Governors of the Federal Reserve System.

Second. The place or places where its operations are to be carried on.

Third. The place in the United States where its home office is to be located.

Fourth. The amount of its capital stock and the number of shares into which the same shall be divided.

Fifth. The names and places of business or residence of the persons executing the certificate and the number of shares to which each has subscribed.

Sixth. The fact that the certificate is made to enable the persons subscribing the same, and all other

persons, firms, companies, and corporations, who or which may thereafter subscribe to or purchase shares of the capital stock of such corporation, to avail themselves of the advantages of this subchapter.

(Dec. 23, 1913, ch. 6, §25A (pars.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Articles of association described in section 612 of this title, referred to in text, was in the original "Such articles of association".

This subchapter, referred to in par. sixth, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 4 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 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.

§614. Organization certificate; acknowledgment; forwarding to, filing, and approval by Board of Governors of the Federal Reserve System; permit to do business; body corporate; name; seal; corporate succession; contracts; suits; directors, officers, and employees; bylaws

The persons signing the organization certificate shall duly acknowledge the execution thereof before a judge of some court of record or notary public, who shall certify thereto under the seal of such court or notary, and thereafter the certificate shall be forwarded to the Board of Governors of the Federal Reserve System to be filed and preserved in its office. Upon duly making and filing articles of association and an organization certificate, and after the Board of Governors of the Federal Reserve System has approved the same and issued a permit to begin business, the association shall become and be a body corporate, and as such and in the name designated therein shall have power to adopt and use a corporate seal, which may be changed at the pleasure of its board of directors; to have succession for a period of twenty years unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an act of Congress or unless its franchises become forfeited by some violation of law; to make contracts; to sue and be sued, complain, and defend in any court of law or equity; to elect or appoint directors; and, by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, require bonds of them, and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure and appoint others to fill their places; to prescribe, by its board of directors, bylaws not inconsistent with law or with the regulations of the Board of Governors of the Federal Reserve System regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 95-369, §3(c), Sept. 17,

1978, 92 Stat. 609; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of par. 5 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

AMENDMENTS

1978—Pub. L. 95–369 struck out ", all of whom shall be citizens of the United States" after "to elect or appoint directors".

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.

§615. Powers of corporation

Each corporation organized as provided in sections 611 to 614 of this title shall have power, under such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe:

(a) Dealings in drafts, checks, bills of exchange, acceptances, and other evidences of indebtedness; purchase and sale of securities; letters of credit; purchase and sale of coin, bullion, and exchange; borrowing and loaning money; issue of debentures, bonds, and notes; deposits; limitation of liabilities; reserves

To purchase, sell, discount, and negotiate, with or without its indorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its indorsement or guaranty, securities, including the obligations of the United States or of any State thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions as the Board of Governors of the Federal Reserve System may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the Board of Governors of the Federal Reserve System may prescribe; to receive deposits outside of the United States and to receive only such deposits within the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States; and generally to exercise such powers as are incidental to the power conferred by this Act or as may be usual, in the determination of the Board of Governors of the Federal Reserve System, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the powers specifically granted herein. Nothing contained in this subchapter shall be construed to prohibit the Board of Governors of the Federal Reserve System, under its power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation organized under this subchapter receives deposits in the United States authorized by this subchapter, it shall carry reserves in such amounts as the Board of Governors of the Federal Reserve System may prescribe for member banks of the Federal Reserve System.

(b) Branches or agencies

To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in the dependencies or insular possessions of the United States, at such places as may be approved by the Board of Governors of the Federal Reserve System and under such rules and regulations as it may prescribe, including countries or dependencies not specified in the original organization certificate.

(c) Purchase of stock in other corporations

With the consent of the Board of Governors of the Federal Reserve System to purchase and hold stock or other certificates of ownership in any other corporation organized under the provisions of this subchapter, or under the laws of any foreign country or a colony or dependency thereof, or under the laws of any State, dependency, or insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and not transacting any business in the United States except such as in the judgment of the Board of Governors of the Federal Reserve System may be incidental to its international or foreign business: *Provided, however*, That, except with the approval of the Board of Governors of the Federal Reserve System, no corporation organized under this subchapter shall invest in any one corporation an amount in excess of 10 per centum of its own capital and surplus, except in a corporation engaged in the business of banking, when 15 per centum of its capital and surplus may be so invested: *Provided further*, That no corporation organized under this subchapter shall purchase, own, or hold stock or certificates of ownership in any other corporation organized under this subchapter or under the laws of any State which is in substantial competition therewith, or which holds stock or certificates of ownership in corporations which are in substantial competition with the purchasing corporation.

Nothing contained herein shall prevent corporations organized under this subchapter from purchasing and holding stock in any corporation where such purchase shall be necessary to prevent a loss upon a debt previously contracted in good faith; and stock so purchased or acquired in corporations organized under this subchapter shall, within six months from such purchase, be sold or disposed of at public or private sale, unless the time to so dispose of same is extended by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §25A (pars.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 95-369, §3(d), (e), Sept. 17, 1978, 92 Stat. 609; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Each corporation organized as provided in sections 611 to 614 of this title, referred to in first par., was in the original "Each corporation so organized".

This act, referred to in subsec. (a), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act, which is classified principally to chapter 3 (§221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

This subchapter, referred to in subsecs. (a) and (c), was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

Organized under this subchapter, referred to in subsec. (c), was in the original "organized hereunder", meaning under section 25A of act Dec. 23, 1913, which comprises this subchapter.

CODIFICATION

Section is comprised of pars. 6 and 7 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-369, §3(d), struck out ", but in no event having liabilities outstanding thereon at any one time exceeding ten times its capital stock and surplus" after "under such general conditions

as to security and such limitations as the Board of Governors of the Federal Reserve System may prescribe".

Pub. L. 95-369, §3(e), which directed substituting "for member banks of the Federal Reserve System" for ", but in no event less than ten per centum of its deposits," in the third sentence, was executed by making the substitution for ", but in no event less than 10 per centum of its deposits" to reflect the probable intent of Congress.

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.

§616. Place of carrying on business; when business may be begun

No corporation organized under this subchapter shall carry on any part of its business in the United States except such as, in the judgment of the Board of Governors of the Federal Reserve System, shall be incidental to its international or foreign business: *And provided further*, That except such as is incidental and preliminary to its organization, no such corporation shall exercise any of the powers conferred by this subchapter until it has been duly authorized by the Board of Governors of the Federal Reserve System to commence business as a corporation organized under the provisions of this subchapter.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 8 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 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.

§617. Engaging in commerce or trade in commodities; price fixing; forfeiture of charter; acts forbidden to directors, officers, agents, or employees

No corporation organized under this subchapter shall engage in commerce or trade in commodities except as specifically provided in this subchapter, nor shall it, either directly or indirectly, control or fix or attempt to control or fix the price of any such commodities. The charter of any corporation violating this provision shall be subject to forfeiture in the manner provided in this subchapter. It shall be unlawful for any director, officer, agent, or employee of any such corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any

such commodities, and any such person violating this provision shall be liable to a fine of not less than \$1,000 and not exceeding \$5,000 or imprisonment not less than one year and not exceeding five years, or both, in the discretion of the court.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 9 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

§618. Capital stock; amount; when paid in

No corporation shall be organized under the provisions of this subchapter with a capital stock of less than \$2,000,000, one-quarter of which must be paid in before the corporation may be authorized to begin business, and the remainder of the capital stock of such corporation shall be paid in installments of at least 10 per centum on the whole amount to which the corporation shall be limited as frequently as one installment at the end of each succeeding two months from the time of the commencement of its business operations until the whole of the capital stock shall be paid in: *Provided, however,* That whenever \$2,000,000 of the capital stock of any corporation is paid in the remainder of the corporation's capital stock or any unpaid part of such remainder may, with the consent of the Board of Governors of the Federal Reserve System and subject to such regulations and conditions as it may prescribe, be paid in upon call from the board of directors; such unpaid subscriptions, however, to be included in the maximum of 10 per centum of the national bank's capital and surplus which a national bank is permitted under the provisions of this Act to hold in stock of corporations engaged in business of the kind described in this subchapter and subchapter I of this chapter. The capital stock of any such corporation may be increased at any time, with the approval of the Board of Governors of the Federal Reserve System, by a vote of two-thirds of its shareholders or by unanimous consent in writing of the shareholders without a meeting and without a formal vote, but any such increase of capital shall be fully paid in within ninety days after such approval; and may be reduced in like manner, provided that in no event shall it be less than \$2,000,000. No corporation, except as herein provided, shall during the time it shall continue its operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. Any national bank may invest in the stock of any corporation organized under this subchapter. The aggregate amount of stock held by any national bank in all corporations engaged in business of the kind described in this subchapter or subchapter I of this chapter shall not exceed an amount equal to 10 percent of the capital and surplus of such bank unless the Board determines that the investment of an additional amount by the bank would not be unsafe or unsound and, in any case, shall not exceed an amount equal to 20 percent of the capital and surplus of such bank.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended June 14, 1921, ch. 22, 42 Stat. 28; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 95-369, §3(d), Sept. 17, 1978, 92 Stat. 609; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281; Pub. L. 104-208, div. A, title II, §2307, Sept. 30, 1996, 110 Stat. 3009-426.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

This Act, referred to in text, is act Dec. 23, 1913, ch. 6, 38 Stat. 251, known as the Federal Reserve Act, which is classified principally to chapter 3 (§221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

Subchapter I of this chapter, referred to in text, was in the original "section 25 of the Federal Reserve Act as amended" and "section 25", which is classified to subchapter I (§601 et seq.) of this chapter.

CODIFICATION

Section is comprised of par. 10 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

AMENDMENTS

1996—Pub. L. 104–208 inserted last sentence and struck out former last sentence which read as follows: "Any national banking association may invest in the stock of any corporation organized under the provisions of said sections, but the aggregate amount of stock held in all corporations engaged in business of the kind described in this subchapter and subchapter I of this chapter shall not exceed 10 per centum of the subscribing bank's capital and surplus."

1978—Pub. L. 95–369 struck out proviso limiting liabilities outstanding at any one time upon debentures, bonds and promissory notes to not in excess of ten times its paid in capital and surplus, after "stock of corporations engaged in business of the kind described in this subchapter and subchapter I of this chapter".

1921—Act June 14, 1921, amended section generally, inserting two provisos.

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.

§619. Capital stock; by whom held; ownership of capital stock by foreign bank

Except as otherwise provided in this subchapter, a majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States. Notwithstanding any other provisions of this subchapter, one or more foreign banks, institutions organized under the laws of foreign countries which own or control foreign banks, or banks organized under the laws of the United States, the States of the United States, or the District of Columbia, the controlling interests in which are owned by any such foreign banks or institutions, may, with the prior approval of the Board of Governors of the Federal Reserve System and upon such terms and conditions and subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, own and hold 50 per centum or more of the shares of the capital stock of any corporation organized under this subchapter and any such corporation shall be subject to the same provisions of law as any other corporation organized under this subchapter, and the terms "controls" and "controlling interest" shall be construed consistently with the definition of "control" in section 2 of the Bank Holding Company Act of 1956 [12 U.S.C. 1841]. For the purposes of the preceding sentence of this paragraph the term "foreign bank" shall have the meaning assigned to it in the International Banking Act of 1978 [12 U.S.C. 3101 et seq.]. Any company, other than a bank as defined in section 2 of the Bank Holding Company Act of 1956, that after March 5, 1987, directly or indirectly acquires control of a corporation organized or operating under the provisions of this subchapter or subchapter I of this

chapter shall be subject to the provisions of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.] in the same manner and to the same extent that bank holding companies are subject thereto, except that such company shall not by reason of this paragraph be deemed a bank holding company for the purpose of section 3 of the Bank Holding Company Act of 1956 [12 U.S.C. 1842]. (Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title III, §329, 49 Stat. 717; Pub. L. 95–369, §3(f), Sept. 17, 1978, 92 Stat. 609; Pub. L. 100–86, title I, §102(c)(1), Aug. 10, 1987, 101 Stat. 566; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

The International Banking Act of 1978, referred to in text, is Pub. L. 95–369, Sept. 17, 1978, 92 Stat. 607, which enacted chapter 32 (§3101 et seq.) and sections 347d and 611a of this title, amended this section and sections 72, 378, 614, 615, 618, 1813, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1829b, 1831b, and 1841 of this title, and enacted provisions set out as notes under sections 247, 611a, and 3101 of this title and formerly set out as notes under sections 36, 247, and 601 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Subchapter I of this chapter, referred to in text, was in the original "section 25", meaning section 25 of the Federal Reserve Act, which is classified to subchapter I (§601 et seq.) of this chapter.

The Bank Holding Company Act of 1956, referred to in text, is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

CODIFICATION

Section is comprised of par. 11 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

AMENDMENTS

1987—Pub. L. 100–86 inserted provisions which related to any company, other than bank as defined in section 2 of Bank Holding Company Act of 1956, that after Mar. 5, 1987, directly or indirectly acquires control of corporation organized or operating under provisions of this subchapter or subchapter I of this chapter to be subject to provisions of Bank Holding Company Act of 1956 in same manner and to same extent that bank holding companies are subject thereto, except that such company shall not by reason of this paragraph be deemed bank holding company for purpose of section 3 of such Act.

1978—Pub. L. 95–369 inserted "Except as otherwise provided in this subchapter" before "a majority of the shares", and inserted provision relating to the ownership of 50 per centum of the shares of capital stock by a foreign bank with prior approval of the Board of Governors of the Federal Reserve System.

1935—Act Aug. 23, 1935, struck out provisions relating to application of section 19 of title 15, to directors, officers or employees of corporations organized under sections 611–631 of this title, and excepting certain persons who received approval of Federal Reserve Board, from application of this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EXCEPTION FOR MIDLAND BANK, LONDON, ENGLAND

Pub. L. 100–86, title I, §102(c)(2), Aug. 10, 1987, 101 Stat. 566, provided that: "The amendment made by paragraph (1) [amending this section] does not apply to an acquisition pursuant to the application by Midland Bank, plc, London, England, pending before the Board of Governors of the Federal Reserve System on July 1, 1987, to acquire a corporation organized or operating under section 25(a) [now 25A] of the Federal Reserve Act [12 U.S.C. 611 et seq.]. If Midland Bank, plc, London, England, is not otherwise subject to section 4 of the Bank Holding Company Act of 1956 [12 U.S.C. 1843], the financial activities of Midland Bank, plc, London, England, in the United States shall, upon the determination of the Board of Governors of the Federal Reserve System made at any time, be subject to section 4 of the Bank Holding Company Act of 1956."

§620. Members of Board of Governors of the Federal Reserve System without interest in corporation

No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any corporation organized under the provisions of this subchapter or of any corporation engaged in similar business organized under the laws of any State, nor hold stock in any such corporation, and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath to the Secretary of the Treasury that he has complied with this requirement.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 12 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 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.

§621. Liability of shareholders on unpaid subscriptions; membership of corporation in Federal reserve bank prohibited

Shareholders in any corporation organized under the provisions of this subchapter shall be liable for the amount of their unpaid stock subscriptions. No such corporation shall become a member of any Federal reserve bank.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 13 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

§622. Forfeiture of rights and privileges; dissolution; liability of directors and

officers

Should any corporation organized under this subchapter violate or fail to comply with any of the provisions of this subchapter, all of its rights, privileges, and franchises derived herefrom may thereby be forfeited. Before any such corporation shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with or violation of such laws shall, however, be determined and adjudged by a court of the United States of competent jurisdiction, in a suit brought for that purpose in the district or territory in which the home office of such corporation is located, which suit shall be brought by the United States at the instance of the Board of Governors of the Federal Reserve System or the Attorney General. Upon adjudication of such noncompliance or violation, each director and officer who participated in, or assented to, the illegal act or acts shall be liable in his personal or individual capacity for all damages which the said corporation shall have sustained in consequence thereof. No dissolution shall take away or impair any remedy against the corporation, its stockholders, or officers for any liability or penalty previously incurred.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Organized under this subchapter, referred to in text, was in the original "organized hereunder", meaning under section 25A of act Dec. 23, 1913, which comprises this subchapter (§611 et seq.).

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913.

CODIFICATION

Section is comprised of par. 14 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 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.

§623. Voluntary liquidation

Any corporation organized under this subchapter may go into voluntary liquidation and be closed by a vote of its shareholders owning two-thirds of its stock.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

Any corporation organized under this subchapter, referred to in text, was in the original "Any such corporation".

CODIFICATION

Section is comprised of par. 15 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

§624. Appointment of receiver or conservator

(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this subchapter to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver for such corporation shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

(B) EQUIVALENT AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under the provisions of this subchapter under this section and any such corporation as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank for which a conservator or receiver has been appointed.

(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this subchapter to file a petition pursuant to title 11, in which case, title 11 shall apply to the corporation in lieu of otherwise applicable Federal or State insolvency law. (Dec. 23, 1913, ch. 6, §25A(16), formerly §25(a) (par.), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A (par.), Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281; renumbered §25A(16), and amended Pub. L. 106–554, §1(a)(5) [title I, §112(e)], Dec. 21, 2000, 114 Stat. 2763, 2763A–396.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. (16) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

AMENDMENTS

2000—Pub. L. 106–554 amended section catchline and text generally. Prior to amendment, text read as follows: "Whenever the Board of Governors of the Federal Reserve System shall become satisfied of the insolvency of any corporation organized under this subchapter, it may appoint a receiver who shall take possession of all of the property and assets of the corporation and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller of the Currency of the United States: *Provided, however,* That the assets of the corporation subject to the laws of other countries or jurisdictions shall be dealt with in accordance with the terms of such laws."

§625. Stockholders' meetings; books and records; reports; examination

Every corporation organized under the provisions of this subchapter shall hold a meeting of its stockholders annually upon a date fixed in its bylaws, such meeting to be held at its home office in the United States. Every such corporation shall keep at its home office books containing the names of all stockholders thereof, and the names and addresses of the members of its board of directors, together with copies of all reports made by it to the Board of Governors of the Federal Reserve System. Every such corporation shall make reports to the Board of Governors of the Federal Reserve System at such times and in such form as it may require; and shall be subject to examination once a year and at such other times as may be deemed necessary by the Board of Governors of the Federal Reserve System by examiners appointed by the Board of Governors of the Federal Reserve System, the cost of such examinations, including the compensation of the examiners, to be fixed by the Board of Governors of the Federal Reserve System and to be paid by the Corporation examined.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 17 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 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.

§626. Dividends; surplus fund

The directors of any corporation organized under the provisions of this subchapter may, semiannually, declare a dividend of so much of the net profits of the corporation as they shall judge expedient; but each corporation shall, before the declaration of a dividend, carry one-tenth of its net profits of the preceding half year to its surplus fund until the same shall amount to 20 per centum of its capital stock.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 18 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

§627. State taxation

Any corporation organized under the provisions of this subchapter shall be subject to tax by the State within which its home office is located in the same manner and to the same extent as other corporations organized under the laws of that State which are transacting a similar character of business. The shares of stock in such corporation shall also be subject to tax as the personal property of the owners or holders thereof in the same manner and to the same extent as the shares of stock in similar State corporations.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; renumbered §25A, Pub. L. 102–242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 19 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

§628. Extension of corporate existence

Any corporation organized under the provisions of this subchapter may at any time within the two years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Board of Governors of the Federal Reserve System for its approval to extend the period of its corporate existence for a term of not more than twenty years, and upon certified approval of the Board of Governors of the Federal Reserve System such corporation shall have its corporate existence for such extended period unless sooner dissolved by the act of the shareholders owning two-thirds of its stock, or by an Act of Congress or unless its franchise becomes forfeited by some violation of law.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 20 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 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.

§629. Conversion of banking corporations into Federal corporations; procedure

Any bank or banking institution, principally engaged in foreign business, incorporated by special law of any State or of the United States or organized under the general laws of any State or of the United States and having an unimpaired capital sufficient to entitle it to become a corporation under the provisions of this subchapter may, by the vote of the shareholders owning not less than two-thirds of the capital stock of such bank or banking association, with the approval of the Board of Governors of the Federal Reserve System, be converted into a Federal corporation of the kind authorized by this subchapter with any name approved by the Board of Governors of the Federal Reserve System: *Provided, however,* That said conversion shall not be in contravention of the State law. In such case the articles of association and organization certificate may be executed by a

majority of the directors of the bank or banking institution, and the certificate shall declare that the owners of at least two-thirds of the capital stock have authorized the directors to make such certificate and to change or convert the bank or banking institution into a Federal corporation. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a Federal corporation. The shares of any such corporation may continue to be for the same amount each as they were before the conversion, and the directors may continue to be directors of the corporation until others are elected or appointed in accordance with the provisions of this subchapter. When the Board of Governors of the Federal Reserve System has given to such corporation a certificate that the provisions of this subchapter have been complied with, such corporation and all its stockholders, officers, and employees shall have the same powers and privileges, and shall be subject to the same duties, liabilities, and regulations, in all respects, as shall have been prescribed by this subchapter for corporations originally organized thereunder.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 21 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 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.

§630. Offenses by officers of corporation; punishment

Every officer, director, clerk, employee, or agent of any corporation organized under this subchapter who embezzles, abstracts, or willfully misapplies any of the moneys, funds, credits, securities, evidences of indebtedness or assets of any character of such corporation; or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, debenture, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of such corporation with intent, in either case, to injure or defraud such corporation or any other company, body politic or corporate, or any individual person, or to deceive any officer of such corporation, the Board of Governors of the Federal Reserve System, or any agent or examiner appointed to examine the affairs of any such corporation; and every receiver of any such corporation and every clerk or employee of such receiver who shall embezzle, abstract, or willfully misapply or wrongfully convert to his own use any moneys, funds, credits, or assets of any character which may come into his possession or under his control in the execution of his trust or the performance of the duties of his employment; and every such receiver or clerk or employee of such receiver who shall, with intent to injure or defraud any person, body politic or corporate, or to deceive or mislead the Board of Governors of the Federal Reserve System, or any agent or examiner appointed to examine the affairs of such receiver, shall make any false entry in any book, report, or record of any matter

connected with the duties of such receiver; and every person who with like intent aids or abets any officer, director, clerk, employee, or agent of any corporation organized under this subchapter, or receiver or clerk or employee of such receiver as aforesaid in any violation of this subchapter, shall upon conviction thereof be imprisoned for not less than two years nor more than ten years, and may also be fined not more than \$5,000, in the discretion of the court.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

CODIFICATION

Section is comprised of par. 22 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 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.

§631. False representations as to liability of United States for acts of corporation; punishment

Whoever being connected in any capacity with any corporation organized under this subchapter, represents in any way that the United States is liable for the payment of any bond or other obligation, or the interest thereon, issued or incurred by any corporation organized under this subchapter, or that the United States incurs any liability in respect of any act or omission of the corporation, shall be punished by a fine or ¹ not more than \$10,000 and by imprisonment for not more than five years.

(Dec. 23, 1913, ch. 6, §25A (par.), formerly §25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; renumbered §25A, Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this section", meaning section 25A of act Dec. 23, 1913, which is classified to this subchapter (§611 et seq.).

Organized under this subchapter, referred to the second time in text, was in the original "organized hereunder", meaning under section 25A of act Dec. 23, 1913.

CODIFICATION

Section is comprised of par. 23 (undesignated) of section 25A of act Dec. 23, 1913, which comprises this subchapter. For complete classification of section 25A of this Act, see Codification note set out under section 611 of this title.

¹ *So in original. Probably should be "of".*

§632. Jurisdiction of United States courts; disposition by banks of foreign owned property

Notwithstanding any other provision of law, all suits of a civil nature at common law or in equity to which any corporation organized under the laws of the United States shall be a party, arising out of transactions involving international or foreign banking, or banking in a dependency or insular possession of the United States, or out of other international or foreign financial operations, either directly or through the agency, ownership, or control of branches or local institutions in dependencies or insular possessions of the United States or in foreign countries, shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such suits; and any defendant in any such suit may, at any time before the trial thereof, remove such suits from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law. Such removal shall not cause undue delay in the trial of such case and a case so removed shall have a place on the calendar of the United States court to which it is removed relative to that which it held on the State court from which it was removed.

Notwithstanding any other provision of law, all suits of a civil nature at common law or in equity to which any Federal Reserve bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such suits; and any Federal Reserve bank which is a defendant in any such suit may, at any time before the trial thereof, remove such suit from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law. No attachment or execution shall be issued against any Federal Reserve bank or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court.

Whenever (1) any Federal Reserve bank has received any property from or for the account of a foreign state which is recognized by the Government of the United States, or from or for the account of a central bank of any such foreign state, and holds such property in the name of such foreign state or such central bank; (2) a representative of such foreign state who is recognized by the Secretary of State as being the accredited representative of such foreign state to the Government of the United States has certified to the Secretary of State the name of a person as having authority to receive, control, or dispose of such property; and (3) the authority of such person to act with respect to such property is accepted and recognized by the Secretary of State, and so certified by the Secretary of State to the Federal Reserve bank, the payment, transfer, delivery, or other disposal of such property by such Federal Reserve bank to or upon the order of such person shall be conclusively presumed to be lawful and shall constitute a complete discharge and release of any liability of the Federal Reserve bank for or with respect to such property.

Whenever (1) any insured bank has received any property from or for the account of a foreign state which is recognized by the Government of the United States, or from or for the account of a central bank of any such foreign state, and holds such property in the name of such foreign state or such central bank; (2) a representative of such foreign state who is recognized by the Secretary of State as being the accredited representative of such foreign state to the Government of the United States has certified to the Secretary of State the name of a person as having authority to receive, control, or dispose of such property; and (3) the authority of such person to act with respect to such property is accepted and recognized by the Secretary of State, and so certified by the Secretary of State to such insured bank, the payment, transfer, delivery, or other disposal of such property by such bank to or upon the order of such person shall be conclusively presumed to be lawful and shall constitute a complete discharge and release of any liability of such bank for or with respect to such property. Any suit or other legal proceeding against any insured bank or any officer, director, or employee thereof, arising out of the receipt, possession, or disposition of any such property shall be deemed to arise under the laws of the United States and the district courts of the United States shall have exclusive jurisdiction thereof, regardless of the amount involved; and any such bank or any officer, director, or employee thereof which is a defendant in any such suit may, at any time before trial thereof, remove such suit from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law.

Nothing in this section shall be deemed to repeal or to modify in any manner any of the provisions of the Gold Reserve Act of 1934, as amended, the Silver Purchase Act of 1934, as amended, or subdivision (b) of section 5 of the Act of October 6, 1917, as amended, or any actions, regulations, rules, orders, or proclamations taken, promulgated, made, or issued pursuant to any of such statutes. In any case in which a license to act with respect to any property referred to in this section is required under any of said statutes, regulations, rules, orders, or proclamations, notification to the Secretary of State by the proper Government officer or agency of the issuance of an appropriate license or that appropriate licenses will be issued on application shall be a prerequisite to any action by the Secretary of State pursuant to this section, and the action of the Secretary of State shall relate only to such property as is included in such notification. Each such notification shall include the terms and conditions of such license or licenses and a description of the property to which they relate.

For the purposes of this section, (1) the term "property" includes gold, silver, currency, credits, deposits, securities, choses in action, and any other form of property, the proceeds thereof, and any right, title, or interest therein; (2) the term "foreign state" includes any foreign government or any department, district, province, county, possession, or other similar governmental organization or subdivision of a foreign government, and any agency or instrumentality of any such foreign government or of any such organization or subdivision; (3) the term "central bank" includes any foreign bank or banker authorized to perform any one or more of the functions of a central bank; (4) the term "person" includes any individual, or any corporation, partnership, association, or other similar organization; and (5) the term "insured bank" shall have the meaning given to it in section 12B of this Act.

(Dec. 23, 1913, ch. 6, §25B, formerly §25(b), as added June 16, 1933, ch. 89, §15, 48 Stat. 184; amended Apr. 7, 1941, ch. 43, §2, 55 Stat. 131; renumbered §25B, Pub. L. 102–242, title I, §142(e)(3), Dec. 19, 1991, 105 Stat. 2281.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Gold Reserve Act of 1934, as amended, referred to in text, is act Jan. 30, 1934, ch. 6, 48 Stat. 337, which enacted sections 315b, 405b, 408a, 408b, 440 to 446, 754a, 754b, 822a, 822b, and 824 of former Title 31, Money and Finance, and amended sections 314, 316, 733, 734, 752, 753, 767, 771, and 821 of former Title 31 and sections 411, 412, 413, 414, 415, 417, and 467 of this title. Title 31 was revised, codified, and enacted into law by Pub. L. 97–258, §1, Sept. 13, 1982, 96 Stat. 877. For disposition of sections of former Title 31 into revised Title 31, see Table preceding section 101 of Title 31. For complete classification of this Act to the Code, see Tables.

The Silver Purchase Act of 1934, as amended, referred to in text, is act June 19, 1934, ch. 674, 48 Stat. 1178, which was classified to sections 311a, 316a, 316b, 405a, 448 to 448e, 734a, and 734b of former Title 31, Money and Finance, and was repealed by Pub. L. 88–36, title I, §1, June 4, 1963, 77 Stat. 54. For complete classification of this Act to the Code, see Tables.

Subdivision (b) of section 5 of the Act of October 6, 1917, referred to in text, is classified to section 4305(b) of Title 50, War and National Defense.

Section 12B of this Act, referred to in the text, was section 12B of the Federal Reserve Act and was formerly classified to section 264 of this title. Section 12B was withdrawn from the Federal Reserve Act and made a separate act to be known as the Federal Deposit Insurance Act by section 1 of act Sept. 21, 1950, ch. 967, 64 Stat. 873. The Federal Deposit Insurance Act is classified generally to chapter 16 (§1811 et seq.) of this title.

CODIFICATION

Section was enacted as section 25B, formerly section 25(b), of the Federal Reserve Act, and not as part of section 25A of that Act which comprises this subchapter.

AMENDMENTS

1941—Act Apr. 7, 1941, added last four pars.

§633. Potential liability on foreign accounts

(a) Exceptions from repayment requirement

A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

- (1) an act of war, insurrection, or civil strife; or
- (2) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located;

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances.

(b) Regulations

The Board and the Comptroller of the Currency may jointly prescribe such regulations as they deem necessary to implement this section.

(Dec. 23, 1913, ch. 6, §25C, as added Pub. L. 103–325, title III, §326(a), Sept. 23, 1994, 108 Stat. 2229.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as section 25C of the Federal Reserve Act, and not as part of section 25A of that Act which comprises this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EXISTING CLAIMS NOT AFFECTED

Pub. L. 103–325, title III, §326(c), Sept. 23, 1994, 108 Stat. 2229, provided that: "Section 25C of the Federal Reserve Act [this section] (as added by subsection (a)) shall not be applied retroactively and shall not be construed to affect or apply to any claim or cause of action addressed by that section arising from events or circumstances that occurred before the date of enactment of this Act [Sept. 23, 1994]."

CHAPTER 6A—EXPORT-IMPORT BANK OF THE UNITED STATES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

- 635. Powers and functions of Bank.
- 635a. Management of Bank.
- 635a–1. Export credit competition.
- 635a–2. Implementation of regulations and procedures to lessen adverse effect of loans and guarantees on industries in United States; report by United States International Trade Commission; written consideration of views of adversely affected parties.
- 635a–3. Export-Import Bank financing to match foreign financing.
- 635a–4. Guarantees for export accounts receivable and inventory.
- 635a–5. Negotiations to end export credit financing.
- 635a–6. Periodic audits of bank transactions.
- 635a–7. Independent audit of bank portfolio.
- 635b. Capitalization of Bank; method of capital stock payments; public-debt transactions; issuance of stock certificates.
- 635c. Repealed.
- 635d. Issuance of debentures, bonds, etc.; obligations redeemable; payment of interest; obligations purchasable by Secretary of the Treasury; public-debt transactions.

- 635e. Aggregate loan, guarantee, and insurance authority.
- 635f. Termination date of Bank's functions; exceptions; liquidation.
- 635g. Report to Congress; time for submission; contents.
- 635g-1. Annual competitiveness report.
- 635h. Exemption from prohibition of section 955 of title 18.
- 635i to 635i-2. Repealed.
- 635i-3. Tied Aid Credit Fund and program.
- 635i-4. Repealed.
- 635i-5. Environmental policy and procedures.
- 635i-6. Debt reduction; Enterprise for the Americas Initiative.
- 635i-7. Cooperation on export financing programs.
- 635i-8. Special debt relief for poorest, most heavily indebted countries.
- 635i-9. Market windows.

SUBCHAPTER II—EXPORT FINANCING

- 635j. Export financing program to foster foreign trade and commercial interest of the United States.
- 635k. Apportionment of losses incurred on loans, guarantees, and insurance; reimbursement; contingent obligations.
- 635l. Authorization for appropriation of funds for losses.
- 635m. Loans, guarantees, and insurance subject to the provisions of this chapter.
- 635n. Prohibition of loans, guarantees, and insurance as to sales of defense articles or services.

SUBCHAPTER III—TIED AID CREDIT EXPORT SUBSIDIES

- 635o. Congressional statement of purpose.
- 635p. Presidential mandate to negotiate; objectives.
- 635q. Establishment of tied aid credit program in United States Export-Import Bank.
- 635r. Establishment of tied aid credit program administered by Trade and Development Agency.
- 635s. Implementation.
- 635t. Definitions.

SUBCHAPTER I—GENERAL PROVISIONS

§635. Powers and functions of Bank

(a) General banking business; use of mails; publication of documents, reports, contracts, etc.; use of assets and allocated or borrowed money; payment of dividends; medium-term financing; dissemination of information; enhancement of medium-term program

(1) There is created a corporation with the name Export-Import Bank of the United States, which shall be an agency of the United States of America. The objects and purposes of the Bank shall be to aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals of any such country, and in so doing to contribute to the employment of United States workers. The Bank's objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers. In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, coinsure, and reinsure against political and credit risks of loss; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted

indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to perform any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States; and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the bank. The bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The Bank is authorized to publish or arrange for the publication of any documents, reports, contracts, or other material necessary in connection with or in furtherance of its objects and purposes without regard to the provisions of section 501 of title 44 whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable. Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, the Bank may impose and collect reasonable fees to cover the costs of conferences and seminars sponsored by, and publications provided by, the Bank, and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5. Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities and shall be offset against the expenses of the Bank for such activities. The bank is authorized to use all of its assets and all moneys which have been or may hereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.

(2) In order for the Bank to be competitive in all of its financing programs with countries whose exports compete with United States exports, the Bank shall establish a program that—

(A) provides medium-term financing where necessary to be fully competitive—

- (i) at rates of interest to the customer which are equal to rates established in international agreements;
- (ii) in amounts up to 85 percent of the total cost of the exports involved; and
- (iii) with principal amounts of not more than \$25,000,000; and

(B) enables the Bank to cooperate fully with the Secretary of Commerce and the Administrator of the Small Business Administration to develop a program for purposes of disseminating information (using existing private institutions) to small business concerns regarding the medium-term financing provided under this paragraph.

(3) ENHANCEMENT OF MEDIUM-TERM PROGRAM.—To enhance the medium-term financing program established pursuant to paragraph (2), the Bank shall establish measures to—

(A) improve the competitiveness of the Bank's medium-term financing and ensure that its medium-term financing is fully competitive with that of other major official export credit agencies;

(B) ease the administrative burdens and procedural and documentary requirements imposed on the users of medium-term financing;

(C) attract the widest possible participation of private financial institutions and other sources of private capital in the medium-term financing of United States exports; and

(D) render the Bank's medium-term financing as supportive of United States exports as is its Direct Loan Program.

(b) Guarantees, insurance, and extension of credit functions; competitive with Government-supported rates and terms and conditions of foreign exporting countries; survey and report; interest rates; private capital encouragement; national interest determinations; delivery of United States services in international commerce; small business concern encouragement; coverage of losses by Foreign Credit Insurance Association; loans to Union of Soviet Socialist Republics for fossil fuel research, etc.; nuclear safeguards

violations resulting in limitations on exports and credit; defense article credit sales to less developed countries; amount outstanding; supplementation of Commodity Credit Corporation programs; limitations on authority of Bank; prohibition relating to Angola

(1)(A) It is the policy of the United States to foster expansion of exports of manufactured goods, agricultural products, and other goods and services, thereby contributing to the promotion and maintenance of high levels of employment and real income, a commitment to reinvestment and job creation, and the increased development of the productive resources of the United States. To meet this objective in all its programs, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are fully competitive with the Government-supported rates and terms and other conditions available for the financing of exports of goods and services from the principal countries whose exporters compete with United States exporters, including countries the governments of which are not members of the Arrangement (as defined in section 635i-3(h)(3) of this title). The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing.

(B) It is further the policy of the United States that loans made by the Bank in all its programs shall bear interest at rates determined by the Board of Directors, consistent with the Bank's mandate to support United States exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements. For the purpose of the preceding sentence, rates and terms and conditions need not be identical in all respects to those offered by foreign countries, but should be established so that the effect of such rates, terms, and conditions for all the Bank's programs, including those for small businesses and for medium-term financing, will be to neutralize the effect of such foreign credit on international sales competition. The Bank shall consider its average cost of money as one factor in its determination of interest rates, where such consideration does not impair the Bank's primary function of expanding United States exports through fully competitive financing. The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors, and (ii) the borrower or the exporter is given the option of paying the fee at the outset of the loan or over the life of the loan and the present value of the fee determined under either such option is the same amount. It is also the policy of the United States that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]; that the Bank shall accord equal opportunity to export agents and managers, independent export firms, export trading companies, and small commercial banks in the formulation and implementation of its programs; that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives; that loans, so far as possible consistent with the carrying out of the purposes of subsection (a), shall generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability of materials which are in short supply in the United States, and employment in the United States, and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President, after consultation with the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, determines that such action would be in the national interest where such action would clearly and

importantly advance United States policy in such areas as international terrorism (including, when relevant, a foreign nation's lack of cooperation in efforts to eradicate terrorism), nuclear proliferation, the enforcement of the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act [22 U.S.C. 2751 et seq.], the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or the Export Administration Act of 1979, environmental protection and human rights (such as are provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948) (including child labor), should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations. Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.

(C) Consistent with the policy of section 3261 of title 22 and section 2151q ¹ of title 22, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.

(D) It is further the policy of the United States to foster the delivery of United States services in international commerce. In exercising its powers and functions, the Bank shall give full and equal consideration to making loans and providing guarantees for the export of services (independently, or in conjunction with the export of manufactured goods, equipment, hardware or other capital goods) consistent with the Bank's policy to neutralize foreign subsidized credit competition and to supplement the private capital market.

(E)(i)(I) It is further the policy of the United States to encourage the participation of small business (including women-owned businesses, minority-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and businesses in rural areas) and start-up businesses in international commerce, and to educate such businesses about how to export goods using the Bank.

(II) In exercising its authority, the Bank shall develop a program which gives fair consideration to making loans and providing guarantees for the export of goods and services by small businesses.

(ii) It is further the policy of the United States that the Bank shall give due recognition to the policy stated in section 631(a) of title 15 that "the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise".

(iii) In furtherance of this policy, the Board of Directors shall designate an officer of the Bank who—

(I) shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns; and

(II) among other duties, shall be responsible for advising small business concerns of the opportunities for small business concerns in the functions of the Bank, with particular emphasis on conducting outreach and increasing loans to socially and economically disadvantaged small business concerns (as defined in section 637(a)(4) of title 15), small business concerns (as defined in section 632(a) of title 15) owned by women, and small business concerns (as defined in section 632(a) of title 15) employing fewer than 100 employees, and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.

(iv) The Director appointed to represent the interests of small business under section 635a(c) of this title shall ensure that the Bank carries out its responsibilities under clauses (ii) and (iii) of this subparagraph and that the Bank's financial and other resources are, to the maximum extent possible, appropriately used for small business needs.

(v) To assure that the purposes of clauses (i) and (ii) of this subparagraph are carried out, the Bank

shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns (as defined under section 632 of title 15) which shall be not less than 30 percent of such authority for each fiscal year. From the amount made available under the preceding sentence, it shall be a goal of the Bank to increase the amount made available to finance exports directly by small business concerns referred to in section 635a(i)(1) of this title. For the purpose of calculating the amounts of authority required under this clause, the Bank shall, with respect to insurance, exclude unutilized authorizations that terminated during the fiscal year.

(vi) The Bank shall utilize the amount set aside pursuant to clause (v) of this subparagraph to offer financing for small business exports on terms which are fully competitive with regard to interest rates and with regard to the portion of financing which may be provided, guaranteed, or insured. Financing under this clause (vi) shall be available without regard to whether financing for the particular transaction was disapproved by any other Federal agency.

(vii)(I) The Bank shall utilize a part of the amount set aside pursuant to clause (v) to provide lines of credit or guarantees to consortia of small or medium size banks, export trading companies, State export finance agencies, export financing cooperatives, small business investment companies (as defined in section 662 of title 15), or other financing institutions or entities in order to finance small business exports.

(II) Financing under this clause (vii) shall be made available only where the consortia or the participating institutions agree to undertake processing, servicing, and credit evaluation functions in connection with such financing.

(III) To the maximum extent practicable, the Bank shall delegate to the consortia or other financing institutions or entities the authority to approve financing under this clause (vii).

(IV) In the administration of the program under this clause (vii), the Bank shall provide appropriate technical assistance to participating consortia and may require such consortia periodically to furnish information to the Bank regarding the number and amount of loans made and the creditworthiness of the borrowers.

(viii) In order to assure that the policy stated in clause (i) is carried out, the Bank shall promote small business exports and its small business export financing programs in cooperation with the Secretary of Commerce, the Office of International Trade of the Small Business Administration, and the private sector, particularly small business organizations, State agencies, chambers of commerce, banking organizations, export management companies, export trading companies, and private industry.

(ix) The Bank shall provide, through creditworthy trade associations, export trading companies, State export finance companies, export finance cooperatives, and other multiple-exporter organizations, medium-term risk protection coverage for the members and clients of such organizations. Such coverage shall be made available to each such organization under a single risk protection policy covering its members or clients. Nothing in this provision shall be interpreted as limiting the Bank's authority to deny support for specific transactions or to disapprove a request by such an organization to participate in such coverage.

(x) The Bank shall implement technology improvements that are designed to improve small business outreach, including allowing customers to use the Internet to apply for the Bank's small business programs.

(F) Consistent with international agreements, the Bank shall urge the Foreign Credit Insurance Association to provide coverage against 100 per centum of any loss with respect to exports having a value of less than \$100,000.

(G) Participation in or access to long-, medium-, and short-term financing, guarantees, and insurance provided by the Bank shall not be denied solely because the entity seeking participation or access is not a bank or is not a United States person.

(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology items to such countries.

(ii) In exercising its authority, the Bank shall develop a program for providing guarantees and

insurance with respect to the export of high technology items to countries making the transition to market based economies, including eligible East European countries (within the meaning of section 5402 of title 22).

(iii) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as such term is defined in section 632 of title 15), about the programs of the Bank for United States companies interested in exporting high technology goods to countries making the transition to market based economies, including any eligible East European country (within the meaning of section 5402 of title 22).

(iv) In carrying out clause (iii), the Bank shall—

(I) work with other agencies involved in export promotion and finance; and

(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.

(I) The President of the Bank shall undertake efforts to enhance the Bank's capacity to provide information about the Bank's programs to small and rural companies which have not previously participated in the Bank's programs. Not later than 1 year after November 26, 1997, the President of the Bank shall submit to Congress a report on the activities undertaken pursuant to this subparagraph.

(J) The Bank shall implement an electronic system designed to track all pending transactions of the Bank.

(K) The Bank shall promote the export of goods and services related to renewable energy sources, energy efficiency (including battery electric vehicles, batteries for electric vehicles, and electric vehicle charging infrastructure), and energy storage. It shall be a goal of the Bank to ensure that not less than 5 percent of the applicable amount (as defined in section 635e(a)(2) of this title) is made available each fiscal year for the financing of renewable energy, energy efficiency (including battery electric vehicles, batteries for electric vehicles, and electric vehicle charging infrastructure), and energy storage technology exports.

(L) The Bank shall require an applicant for assistance from the Bank to disclose whether the applicant has been found by a court of the United States to have violated the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act [22 U.S.C. 2751 et seq.], the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or the Export Administration Act of 1979 within the preceding 12 months, and shall maintain, in cooperation with the Department of Justice, for not less than 3 years a record of such applicants so found to have violated any such Act.

(M) Not later than 2 years after December 4, 2015, the Bank shall implement policies—

(i) to accept electronic documents with respect to transactions whenever possible, including copies of bills of lading, certifications, and compliance documents, in such manner so as not to undermine any potential civil or criminal enforcement related to the transactions; and

(ii) to accept electronic payments in all of its programs.

(2) PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.—

(A) IN GENERAL.—The Bank in the exercise of its functions shall not guarantee, insure, extend credit, or participate in the extension of credit—

(i) in connection with the purchase or lease of any product by a Marxist-Leninist country, or agency or national thereof; or

(ii) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Marxist-Leninist country.

(B) MARXIST-LENINIST COUNTRY DEFINED.—

(i) IN GENERAL.—For purposes of this paragraph, the term "Marxist-Leninist country" means any country that maintains a centrally planned economy based on the principles of

Marxism-Leninism, or is economically and militarily dependent on any other such country.

(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

- (I) Democratic People's Republic of Korea.
- (II) Democratic Republic of Afghanistan.
- (III) People's Republic of China.
- (IV) Republic of Cuba.
- (V) Socialist Republic of Vietnam.
- (VI) Tibet.

(C) PRESIDENTIAL DETERMINATION THAT A COUNTRY HAS CEASED TO BE MARXIST-LENINIST.—If the President determines that any country on the list contained in subparagraph (B)(ii) has ceased to be a Marxist-Leninist country (within the definition of such term in subparagraph (B)(i)), such country shall not be treated as a Marxist-Leninist country for purposes of this paragraph after the date of such determination, unless the President subsequently determines that such country has again become a Marxist-Leninist country.

(D) PRESIDENTIAL DETERMINATION RELATING TO FINANCING IN THE NATIONAL INTEREST.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to guarantees, insurance, or extensions of credit by the Bank to a country, agency, or national described in clause (i) or (ii) of subparagraph (A) (in connection with transactions described in such clauses) if the President determines that such guarantees, insurance, or extensions of credit are in the national interest.

(ii) SEPARATE DETERMINATION FOR CERTAIN TRANSACTIONS.—The President shall make a separate determination under clause (i) for each transaction described in clause (i) or (ii) of subparagraph (A) for which the Bank would extend a loan in an amount equal to or greater than \$50,000,000.

(iii) REPORT OF CLAUSE (i) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (i) shall be reported to the Congress not later than the earlier of—

- (I) the end of the 30-day period beginning on the date of such determination; or
- (II) the date the Bank takes final action with respect to the first transaction involving the country, agency, or national for which such determination is made after January 4, 1975, unless a report of a determination with respect to such country, agency, or national was made and reported before January 4, 1975.

(iv) REPORT OF CLAUSE (ii) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (ii) shall be reported to the Congress not later than the earlier of—

- (I) the end of the 30-day period beginning on the date of such determination; or
- (II) the date the Bank takes final action with respect to the transaction for which such determination is made.

(3) Except as provided by the fourth sentence of this paragraph, no loan or financial guarantee or general guarantee or insurance facility or combination thereof (i) in an amount which equals or exceeds \$100,000,000, or (ii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities, shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on

which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25 day period referred to in such sentence. Such statement shall contain—

(A) in the case of a loan or financial guarantee—

- (i) a brief description of the purposes of the transaction;
- (ii) the identity of the party or parties requesting the loan or financial guarantee;
- (iii) the nature of the goods or services to be exported and the use for which the goods or services are to be exported; and
- (iv) in the case of a general guarantee or insurance facility—
 - (I) a description of the nature and purpose of the facility;
 - (II) the total amount of guarantees or insurance; and
 - (III) the reasons for the facility and its methods of operation; and

(B) a full explanation of the reasons for Bank financing of the transaction, the amount of the loan to be provided by the Bank, the approximate rate and repayment terms at which such loan will be made available and the approximate amount of the financial guarantee.

If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least ten days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the twenty-five-day period referred to in the first sentence of this paragraph or upon the termination of a thirty-five-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner.

(4)(A) If the Secretary of State determines that—

- (i) any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after October 26, 1977, such safeguards;
- (ii) any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after October 26, 1977, any guarantee or other undertaking to the United States made in such agreement;
- (iii) any country that is not a nuclear-weapon state detonates, after October 26, 1977, a nuclear explosive device;
- (iv) any country willfully aids or abets, after June 29, 1994, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material; or
- (v) any person knowingly aids or abets, after September 23, 1996, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material,

then the Secretary of State shall submit a report to the appropriate committees of the Congress and to the Board of Directors of the Bank stating such determination and identifying each country or person the Secretary determines has so acted.

(B)(i) If the Secretary of State makes a determination under subparagraph (A)(v) with respect to a foreign person, the Congress urges the Secretary to initiate consultations immediately with the government with primary jurisdiction over that person with respect to the imposition of the prohibition contained in subparagraph (C).

(ii) In order that consultations with that government may be pursued, the Board of Directors of the Bank shall delay imposition of the prohibition contained in subparagraph (C) for up to 90 days if the Secretary of State requests the Board to make such delay. Following these consultations, the prohibition contained in subparagraph (C) shall apply immediately unless the Secretary determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subparagraph (A)(v). The Board of Directors of the Bank shall delay the imposition of the prohibition contained in subparagraph (C) for up to an additional 90 days if the Secretary requests

the Board to make such additional delay and if the Secretary determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(iii) Not later than 90 days after making a determination under subparagraph (A)(v), the Secretary of State shall submit to the appropriate committees of the Congress a report on the status of consultations with the appropriate government under this subparagraph, and the basis for any determination under clause (ii) that such government has taken specific corrective actions.

(C) The Board of Directors of the Bank shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to any country, or to or by any person, identified in the report described in subparagraph (A).

(D) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to a country with respect to which a determination is made under clause (i), (ii), (iii), or (iv) of subparagraph (A) regarding any specific event described in such clause if the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that it is in the national interest for the Bank to give such approvals.

(E) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to or by a person with respect to whom a determination is made under clause (v) of subparagraph (A) regarding any specific event described in such clause if—

- (i) the Secretary of State determines and certifies to the Congress that the appropriate government has taken the corrective actions described in subparagraph (B)(ii); or
- (ii) the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that—

(I) reliable information indicates that—

- (aa) such person has ceased to aid or abet any non-nuclear-weapon state to acquire any nuclear explosive device or to acquire unsafeguarded special nuclear material; and
- (bb) steps have been taken to ensure that the activities described in item (aa) will not resume; or

(II) the prohibition would have a serious adverse effect on vital United States interests.

(F) For purposes of this paragraph:

- (i) The term "country" has the meaning given to "foreign state" in section 1603(a) of title 28.
- (ii) The term "knowingly" is used within the meaning of the term "knowing" in section 78dd-2(h)(3) of title 15.
- (iii) The term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.
- (iv) The term "nuclear-weapon state" has the meaning given the term in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.
- (v) The term "non-nuclear-weapon state" has the meaning given the term in section 6305(5) of title 22.
- (vi) The term "nuclear explosive device" has the meaning given the term in section 6305(4) of title 22.
- (vii) The term "unsafeguarded special nuclear material" has the meaning given the term in section 6305(8) of title 22.

(5) The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with (A) the purchase of any product, technical data, or other information by a national or agency of any nation which engages in armed conflict, declared or otherwise, with the Armed Forces of the United States, (B) the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in any such nation

described in clause (A), or (C) the purchase of any liquid metal fast breeder nuclear reactor or any nuclear fuel reprocessing facility. The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation if the President determines that any such transaction would be contrary to the national interest.

(6)(A) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country.

(B) Subparagraph (A) shall not apply to any sale of defense articles or services if—

- (i) the Bank is requested to provide a guarantee or insurance for the sale;
- (ii) the President determines that the defense articles or services are being sold primarily for anti-narcotics purposes;
- (iii) section 2291j(e) of title 22 does not apply with respect to the purchasing country;
- (iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States; and
- (v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles or services.

(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

- (i) be consistent with the anti-narcotics policy of the United States;
- (ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 2291(e) of title 22); and
- (iii) be made to a country with a democratic form of government.

(D)(i) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless—

(I) the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance;

(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and

(III) such determinations have been reported to the Speaker and the Committee on Financial Services of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, not less than 25 days of continuous session of the Congress before the date of such approval.

(ii) For purposes of clause (i), continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25-day period referred to in such clause.

(E) The provision of a guarantee or insurance under subparagraph (B) shall be deemed to be the provision of security assistance for purposes of section 2304 of title 22 (relating to governments which engage in a consistent pattern of gross violations of internationally recognized human rights).

(F) To the extent that defense articles or services for which a guarantee or insurance is provided under subparagraph (B) are used for a purpose other than anti-narcotics purposes, they may be used only for those purposes for which defense articles and defense services sold under the Arms Export Control Act [22 U.S.C. 2751 et seq.] (relating to the foreign military sales program) may be used under section 4 of such Act [22 U.S.C. 2754].

(G) As used in subparagraphs (B), (C), (D), and (F), the term "defense articles or services" means

articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act [22 U.S.C. 2778, 2794(7)] and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).

(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i). Such report shall include a description of each of the transactions and the justification for the Bank's actions.

(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

(I) the Bank determines that—

(aa) the defense articles or services are nonlethal; and

(bb) the primary end use of the defense articles or services will be for civilian purposes; and

(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.

(7) In no event shall the Bank have outstanding at any time in excess of 7½ per centum of the limitation imposed by section 635e of this title for such guarantees, insurance, credits or participation in credits with respect to exports of defense articles and services to countries which, in the judgment of the Board of Directors of the Bank, are less developed.

(8) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to ensure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with paragraph (1)(A) of this subsection, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce Government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the nation's balance of trade in deciding whether or not to provide assistance under this subsection.

(9)(A) The Board of Directors of the Bank shall, in consultation with the Secretary of Commerce and the Trade Promotion Coordinating Committee, take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of

Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

(iii) The advisory committee shall terminate on the date on which the authority of the Bank expires under section 635f of this title.

(C) The Bank shall include in the annual report to the Congress submitted under section 635g(a) of this title a separate section that contains a report on the efforts of the Bank to—

(i) improve its working relationships with the African Development Bank, the African Export-Import Bank, and other institutions in the region that are relevant to the purposes of subparagraph (A) of this paragraph; and

(ii) coordinate closely with the United States Foreign Service and Foreign Commercial Service, and with the overall strategy of the United States Government for economic engagement with Africa pursuant to the African Growth and Opportunity Act [19 U.S.C. 3701 et seq.].

(D) Consistent with the requirement that the Bank obtain a reasonable assurance of repayment in connection with each transaction the Bank supports, the Bank shall, in consultation with the entities described in subparagraph (C), seek to qualify a greater number of appropriate African entities for participation in programs of the Bank.

(10)(A) The Bank shall not, without a specific authorization by law, guarantee, insure, or extend credit (or participate in the extension of credit) to—

(i) assist specific countries with balance of payments financing; or

(ii) assist (as the primary purpose of any such guarantee, insurance, or credit) any country in the management of its international indebtedness, other than its outstanding obligations to the Bank.

(B) Nothing contained in subparagraph (A) shall preclude guarantees, insurance, or credit the primary purpose of which is to support United States exports.

(11) PROHIBITION RELATING TO ANGOLA.—The Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with any export of any good (other than food or an agricultural commodity) or service to the People's Republic of Angola until the President certifies to the Congress that free and fair elections have been held in Angola in which all participants were afforded free and fair access, and that the government of Angola—

(A) is willing, and is actively seeking, to achieve an equitable political settlement of the conflict in Angola, including free and fair elections, through a mutual cease-fire and a dialogue with the opposition armed forces;

(B) has demonstrated progress in protecting internationally recognized human rights, and particularly in—

(i) ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights;

(ii) vigorously prosecuting persons engaged in political violence who are connected with the government; and

(iii) bringing to justice those responsible for the abduction, torture, and murder of citizens of Angola and citizens of the United States; and

(C) has demonstrated progress in its respect for, and protection of—

(i) the freedom of the press;

(ii) the freedom of speech;

(iii) the freedom of assembly;

(iv) the freedom of association (including the right to organize for political purposes);

(v) internationally recognized worker rights; and

(vi) other attributes of political pluralism and democracy.

The President shall include in each report made pursuant to this paragraph a detailed statement with respect to each of the conditions set forth in this paragraph. This paragraph shall not be construed to impose any requirement with respect to Angola that is more restrictive than any requirement imposed by this section generally on all other countries.

(12) PROHIBITION RELATING TO RUSSIAN TRANSFERS OF CERTAIN MISSILE SYSTEMS.—If the President of the United States determines that the military or Government of the Russian Federation has transferred or delivered to the People's Republic of China an SS-N-22 missile system and that the transfer or delivery represents a significant and imminent threat to the security of the United States, the President of the United States shall notify the Bank of the transfer or delivery as soon as practicable. Upon receipt of the notice and if so directed by the President of the United States, the Board of Directors of the Bank shall not give approval to guarantee, insure, extend credit, or participate in the extension of credit in connection with the purchase of any good or service by the military or Government of the Russian Federation.

(13) PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.—The Bank shall not guarantee, insure, or extend (or participate in the extension of) credit in connection with the export of any good or service relating to the development or promotion of any railway connection or railway-related connection that does not traverse or connect with Armenia and does traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.

(c) Guarantees, insurance, coinsurance, and reinsurance functions; fractional charge; aggregate outstanding amount; fees and premiums; issuance, service and adjustments by agents; transferability of guarantees

(1) The Bank shall charge fees and premiums commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss.

(2) The Bank may issue such guarantees, insurance, coinsurance, and reinsurance to or with exporters, insurance companies, financial institutions, or others, or groups thereof, and where appropriate may employ any of the same to act as its agent in the issuance and servicing of such guarantees, insurance, coinsurance, and reinsurance, and the adjustment of claims arising thereunder.

(3) TRANSFERABILITY OF GUARANTEES.—

(A) IN GENERAL.—With respect to medium-term and long-term obligations insured or guaranteed by the Bank after October 15, 1986, the Bank shall authorize the unrestricted transfer of such obligations by the originating lenders or their transferees to other lenders without affecting, limiting, or terminating the guarantee or insurance provided by the Bank.

(B) GUARANTEE COVERAGE.—For the guarantee program provided for in this subsection, the Bank may provide up to 100 percent coverage of the interest and principal if the Board of Directors determines such coverage to be necessary to ensure acceptance of Bank guarantees by financial institutions for any transaction in any export market in which the Bank is open for business.

(d) Equal and nondiscriminatory opportunities for domestic companies to bid for insurance

(1) In carrying out its responsibilities under this subchapter, the Bank shall work to ensure that United States companies are afforded an equal and nondiscriminatory opportunity to bid for insurance in connection with transactions assisted by the Bank.

(2) COMPETITIVE OPPORTUNITY FOR INSURANCE COMPANIES.—In the case of any long-term loan or guarantee of not less than \$25,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

(3) RESPONSIVE ACTIONS.—If the Bank becomes aware that a fair and open competitive opportunity is not accorded to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

(A) may approve or deny the loan or guarantee after considering whether such action would be

likely to achieve competitive access for United States insurance companies; and

(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

(4) NOTICE OF APPROVAL.—If the Bank approves a loan or guarantee with respect to a foreign country notwithstanding information regarding denial by that foreign country of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such approval in the report on competition in officially supported export credit required under subsection (b)(1)(A).

(5) DEFINITIONS.—For purposes of this section—

(A) the term "United States insurance company"—

(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

(B) the term "fair and open competitive opportunity" means, with respect to the provision of insurance by a United States insurance company, that the company—

(i) has received notice of the opportunity to provide such insurance; and

(ii) has been evaluated for such opportunity on a nondiscriminatory basis.

(e) Limitation on assistance which adversely affects the United States

(1) In general

The Bank may not extend any direct credit or financial guarantee for establishing or expanding production of any commodity for export by any country other than the United States, if—

(A) the Bank determines that—

(i) the commodity is likely to be in surplus on world markets at the time the resulting commodity will first be sold; or

(ii) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

(B) the Bank determines that the extension of such credit or guarantee will cause substantial injury to United States producers of the same, similar, or competing commodity.

In making the determination under subparagraph (B), the Bank shall determine whether the facility that would benefit from the extension of a credit or guarantee is reasonably likely to produce a commodity in addition to, or other than, the commodity specified in the application and whether the production of the additional commodity may cause substantial injury to United States producers of the same, or a similar or competing, commodity.

(2) Outstanding orders and preliminary injury determinations

(A) Orders

The Bank shall not provide any loan or guarantee to an entity for the resulting production of substantially the same product that is the subject of—

(i) a countervailing duty or antidumping order under title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.]; or

(ii) a determination under title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

(B) Affirmative determination

Within 60 days after June 14, 2002, the Bank shall establish procedures regarding loans or

guarantees provided to any entity that is subject to a preliminary determination of a reasonable indication of material injury to an industry under title VII of the Tariff Act of 1930. The procedures shall help to ensure that these loans and guarantees are likely to not result in a significant increase in imports of substantially the same product covered by the preliminary determination and are likely to not have a significant adverse impact on the domestic industry. The Bank shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of these procedures.

(C) Comment period

The Bank shall establish procedures under which the Bank shall notify interested parties and provide a comment period of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days) with regard to loans or guarantees reviewed pursuant to subparagraph (B) or (D).

(D) Consideration of investigations under title II of the Trade Act of 1974

In making any determination under paragraph (1) for a transaction involving more than \$10,000,000, the Bank shall consider investigations under title II of the Trade Act of 1974 that have been initiated at the request of the President of the United States, the United States Trade Representative, the Committee on Finance of the Senate, or the Committee on Ways and Means of the House of Representatives, or by the International Trade Commission on its own motion.

(E) Anti-circumvention

The Bank shall not provide a loan or guarantee if the Bank determines that providing the loan or guarantee will facilitate circumvention of an order or determination referred to in subparagraph (A).

(3) Exception

Paragraphs (1) and (2) shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short- and long-term benefits to industry and employment in the United States are likely to outweigh the short- and long-term injury to United States producers and employment of the same, similar, or competing commodity.

(4) Definition

For purposes of paragraph (1)(B), the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.

(5) Designation of sensitive commercial sectors and products

Not later than 120 days after December 20, 2006, the Bank shall submit a list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, which designates sensitive commercial sectors and products with respect to which the provision of financing support by the Bank is deemed unlikely by the President of the Bank due to the significant potential for a determination that such financing support would result in an adverse economic impact on the United States. The President of the Bank shall review on an annual basis thereafter the list of sensitive commercial sectors and products and the Bank shall submit an updated list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such sectors and products.

(6) Financial threshold determinations

For purposes of determining whether a proposed transaction exceeds a financial threshold under this subsection or under the procedures or rules of the Bank, the Bank shall aggregate the dollar

amount of the proposed transaction and the dollar amounts of all loans and guarantees, approved by the Bank in the preceding 24-month period, that involved the same foreign entity and substantially the same product to be produced.

(7) Procedures to reduce adverse effects of loans and guarantees on industries and employment in United States

(A) Consideration of economic effects of proposed transactions

If, in making a determination under this paragraph with respect to a loan or guarantee, the Bank conducts a detailed economic impact analysis or similar study, the analysis or study, as the case may be, shall include consideration of—

- (i) the factors set forth in subparagraphs (A) and (B) of paragraph (1); and
- (ii) the views of the public and interested parties.

(B) Notice and comment requirements

(i) In general

If, in making a determination under this subsection with respect to a loan or guarantee, the Bank intends to conduct a detailed economic impact analysis or similar study, the Bank shall publish in the Federal Register a notice of the intent, and provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic effects of the provision of the loan or guarantee, including comments on the factors set forth in subparagraphs (A) and (B) of paragraph (1). In addition, the Bank shall seek comments on the economic effects from the Department of Commerce, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(ii) Content of notice

The notice shall include appropriate, nonproprietary information about—

- (I) the country to which the goods involved in the transaction will be shipped;
- (II) the type of goods being exported;
- (III) the amount of the loan or guarantee involved;
- (IV) the goods that would be produced as a result of the provision of the loan or guarantee;
- (V) the amount of increased production that will result from the transaction;
- (VI) the potential sales market for the resulting goods; and
- (VII) the value of the transaction.

(iii) Procedure regarding materially changed applications

(I) In general

If a material change is made to an application for a loan or guarantee from the Bank after a notice with respect to the intent described in clause (i) is published under this subparagraph, the Bank shall publish in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

(II) Material change defined

As used in subclause (I), the term "material change", with respect to an application, includes—

- (aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and
- (bb) a change in the principal product to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

(C) Requirement to address views of adversely affected persons

Before taking final action on an application for a loan or guarantee to which this section

applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments pursuant to subparagraph (B).

(D) Publication of conclusions

Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

(E) Maintenance of documentation

The Bank shall maintain documentation relating to economic impact analyses and similar studies conducted under this subsection in a manner consistent with the Standards for Internal Control of the Federal Government issued by the Comptroller General of the United States.

(F) Rule of interpretation

This paragraph shall not be construed to make subchapter II of chapter 5 of title 5 applicable to the Bank.

(G) Regulations

The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.

(f) Authority to deny application for assistance based on fraud or corruption by party involved in the transaction

In addition to any other authority of the Bank, the Bank may deny an application for assistance with respect to a transaction if the Bank has substantial credible evidence that any party to the transaction or any party involved in the transaction has committed an act of fraud or corruption in connection with the transaction, and shall deny an application for assistance if the end user, borrower, lender, or exporter has been convicted of an act of fraud or corruption in connection with an application for support from the Bank made in the preceding 5 years. The Bank may proceed with an application described in this subsection only if an end user, borrower, lender, or exporter can be fully excluded from the transaction.

(g) Process for notifying applicants of application status

The Bank shall establish and adhere to a clearly defined process for—

- (1) acknowledging receipt of applications;
- (2) informing applicants that their applications are complete or, if incomplete or containing a minor defect, of the additional material or changes that, if supplied or made, would make the application eligible for consideration; and
- (3) keeping applicants informed of the status of their applications, including a clear and timely notification of approval or disapproval, and, in the case of disapproval, the reason for disapproval, as appropriate.

(h) Response to application for financing; implementation of online loan request and tracking process

(1) Response to applications

Within 5 days after the Bank receives an application for financing, the Bank shall notify the applicant that the application has been received, and shall include in the notice—

- (A) a request for such additional information as may be necessary to make the application complete;
- (B) the name of a Bank employee who may be contacted with questions relating to the application; and
- (C) a unique identification number which may be used to review the status of the application at a website established by the Bank.

(2) Website

Not later than September 1, 2007, the Bank shall exercise the authority granted by subparagraphs (E)(x) and (J) of subsection (b)(1) to establish, and thereafter to maintain, a website through which—

- (A) Bank products may be applied for; and
- (B) information may be obtained with respect to—
 - (i) the status of any such application;
 - (ii) the Small Business Division of the Bank; and
 - (iii) incentives, preferences, targets, and goals relating to small business concerns (as defined in section 632(a) of title 15), including small business concerns exporting to Africa.

(i) Due diligence standards for lender partners

The Bank shall set due diligence standards for its lender partners and participants, which should be applied across all programs consistently. To minimize or prevent fraudulent activity, the Bank shall require all delegated lenders to implement "Know your customer practices".

(j) Non-subordination requirement

In entering into financing contracts, the Bank shall seek a creditor status which is not subordinate to that of all other creditors, in order to reduce the risk to, and enhance recoveries for, the Bank.

(k) Prohibition on discrimination based on industry

(1) In general

Except as provided in this subchapter, the Bank may not—

- (A) deny an application for financing based solely on the industry, sector, or business that the application concerns; or
- (B) promulgate or implement policies that discriminate against an application based solely on the industry, sector, or business that the application concerns.

(2) Applicability

The prohibitions under paragraph (1) apply only to applications for financing by the Bank for projects concerning the exploration, development, production, or export of energy sources and the generation or transmission of electrical power, or combined heat and power, regardless of the energy source involved.

(l) Program on China and Transformational Exports

(1) In general

The Bank shall establish a Program on China and Transformational Exports to support the extension of loans, guarantees, and insurance, at rates and on terms and other conditions, to the extent practicable, that are fully competitive with rates, terms, and other conditions established by the People's Republic of China or by a covered country, that aim to—

- (A) directly neutralize export subsidies for competing goods and services financed by official export credit, tied aid, or blended financing provided by the People's Republic of China or by a covered country; or
- (B) advance the comparative leadership of the United States with respect to the People's Republic of China, or support United States innovation, employment, and technological standards, through direct exports in any of the following areas:
 - (i) Artificial intelligence.
 - (ii) Biotechnology.
 - (iii) Biomedical sciences.
 - (iv) Wireless communications equipment (including 5G or subsequent wireless technologies).
 - (v) Quantum computing.
 - (vi) Renewable energy, energy efficiency, and energy storage.
 - (vii) Semiconductor and semiconductor machinery manufacturing.

- (viii) Emerging financial technologies, including technologies that facilitate—
 - (I) financial inclusion through increased access to capital and financial services;
 - (II) data security and privacy;
 - (III) payments, the transfer of funds, and associated messaging services; and
 - (IV) efforts to combat money laundering and the financing of terrorism.

(ix) Water treatment and sanitation, including technologies and infrastructure to reduce contaminants and improve water quality.

(x) High performance computing.

(xi) Associated services necessary for use of any of the foregoing exports.

(2) Covered countries

In this subsection, the term "covered country" means any country that—

(A) the Secretary of the Treasury designates as a covered country in a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Development of the Senate;

(B) is not a participant in the Arrangement on Officially Supported Export Credits of the Organization for Economic Cooperation and Development (in this subsection referred to as the "Arrangement"); and

(C) is not in substantial compliance with the financial terms and conditions of the Arrangement.

(3) Financing

(A) In general

It shall be a goal of the Bank to reserve not less than 20 percent of the applicable amount (as defined in section 635e(a)(2) of this title) for support made pursuant to the Program on China and Transformational Exports.

(B) Exception

The Secretary of the Treasury may reduce or eliminate the 20 percent goal in subparagraph (A), on reporting to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that the People's Republic of China is in substantial compliance with—

- (i) the financial terms and conditions of the Arrangement; and
- (ii) the rules and principles of the Paris Club.

(C) Sunset and report

The program established under paragraph (1) shall expire on December 31, 2026. Not later than 4 years after December 20, 2019, the President of the Bank shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate assessing the following:

- (i) The capacity and demand of United States entities to export goods and services in the areas described in paragraph (1)(B), as assessed in consultation with the Secretary of Commerce.
- (ii) The availability of private-sector financing for exports in the areas.
- (iii) The feasibility and advisability of continuing the goal of subparagraph (A) of this paragraph with respect to paragraph (1)(B) after December 31, 2026.

(D) National Advisory Council on International Monetary and Financial Problems

The National Advisory Council on International Monetary and Financial Problems shall ensure that Bank authorizations pursuant to the Program on China and Transformational Exports are considered or reviewed expeditiously, consistent with the other credit standards required by law.

Pub. L. 88–101, §1(a), Aug. 20, 1963, 77 Stat. 128; Pub. L. 90–267, §1(a)–(c), Mar. 13, 1968, 82 Stat. 47–49; Pub. L. 92–126, §1(b)(1), (2), (5), (6), Aug. 17, 1971, 85 Stat. 345, 346; Pub. L. 93–646, §§2–6, 13, Jan. 4, 1975, 88 Stat. 2333–2335, 2337; Pub. L. 95–143, §§1–3, Oct. 26, 1977, 91 Stat. 1210; Pub. L. 95–630, title XIX, §§1902–1904, 1907(a), 1909, 1910, 1915, 1916, Nov. 10, 1978, 92 Stat. 3724–3727; Pub. L. 96–470, title II, §210, Oct. 19, 1980, 94 Stat. 2245; Pub. L. 98–181, title I [title VI, §§612, 616(a), 617, 618(a), (c), 619(b)–(d), 620(a), 622], Nov. 30, 1983, 97 Stat. 1255, 1257, 1258, 1260, 1261; Pub. L. 99–440, title II, §204, Oct. 2, 1986, 100 Stat. 1096; Pub. L. 99–472, §§2–11, 20(a), Oct. 15, 1986, 100 Stat. 1200–1203, 1209; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–418, title III, §3304, Aug. 23, 1988, 102 Stat. 1384; Pub. L. 100–690, title IV, §4703, Nov. 18, 1988, 102 Stat. 4293; Pub. L. 101–240, title I, §§101(a), (c), (d), 102, Dec. 19, 1989, 103 Stat. 2493–2495; Pub. L. 101–513, title V, §562 (part), Nov. 5, 1990, 104 Stat. 2031; Pub. L. 101–623, §16, Nov. 21, 1990, 104 Stat. 3357; Pub. L. 102–145, §121(2), (3), Oct. 28, 1991, as added Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 95; Pub. L. 102–429, title I, §§104, 105, 107, 109(a), 110–112(d), 114, 116, 121(a), Oct. 21, 1992, 106 Stat. 2189, 2190, 2193–2196, 2198; Pub. L. 102–583, §§6(c), 12(a), (c)(1)(A), Nov. 2, 1992, 106 Stat. 4932, 4935; Pub. L. 103–149, §4(b)(5), Nov. 23, 1993, 107 Stat. 1505; Pub. L. 103–236, title VIII, §825, Apr. 30, 1994, 108 Stat. 514; Pub. L. 103–428, §1(a), (b), Oct. 31, 1994, 108 Stat. 4375; Pub. L. 103–447, title I, §102(a), Nov. 2, 1994, 108 Stat. 4693; Pub. L. 104–201, div. A, title XIII, §1303(a), Sept. 23, 1996, 110 Stat. 2702; Pub. L. 105–121, §§5, 7(a), 9–12, Nov. 26, 1997, 111 Stat. 2529, 2530; Pub. L. 106–569, title XI, §§1103(d)(1), 1104(a)(1), (2), Dec. 27, 2000, 114 Stat. 3031; Pub. L. 107–189, §§2, 6(a), (b), 7–8(b), 11, 13, 15–19, 21, 24(a)(1)–(2)(D), (b)(1)–(3), June 14, 2002, 116 Stat. 698, 700, 704–709; Pub. L. 109–438, §§3(a), (b)(2), (c), 5, 6(b)(2), 7, 8, 11, 12, 13(b), (c), 14(b), Dec. 20, 2006, 120 Stat. 3268, 3269, 3272, 3273, 3276, 3277, 3279, 3280; Pub. L. 112–122, §§7, 8, 12(b), 22, 23, May 30, 2012, 126 Stat. 354, 357, 363; Pub. L. 114–94, div. E, title LII, §52001(a), title LIII, §53001, title LIV, §54001(c), 54002(a), (b), title LV, §55001, Dec. 4, 2015, 129 Stat. 1767–1769; Pub. L. 116–94, div. I, title IV, §§402(a), 403, 404(a), 405–407, Dec. 20, 2019, 133 Stat. 3021, 3023, 3024.)

AMENDMENT OF SECTION

For termination of amendment by section 1(c) of Pub. L. 103–428, see Effective and Termination Dates of 1994 Amendments note below.

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b)(1)(B), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

The Foreign Corrupt Practices Act of 1977, referred to in subsec. (b)(1)(B), (L), is title I of Pub. L. 95–213, Dec. 19, 1977, 91 Stat. 1494, which enacted sections 78dd–1 to 78dd–3 of Title 15, Commerce and Trade, and amended sections 78m and 78ff of Title 15. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 78a of Title 15 and Tables.

The Arms Export Control Act, referred to in subsec. (b)(1)(B), (L), (6)(F), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (b)(1)(B), (L), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Export Administration Act of 1979, referred to in subsec. (b)(1)(B), (L), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense, prior to repeal by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232, except for sections 11A, 11B, and 11C thereof (50 U.S.C. 4611, 4612, 4613).

Section 2151q of title 22, referred to in subsec. (b)(1)(C), was repealed by Pub. L. 96–533, title III, §304(g),

Dec. 16, 1980, 94 Stat. 3147. See section 2151d(a)(2), (b)(2), (c) of Title 22, Foreign Relations and Intercourse.

The African Growth and Opportunity Act, referred to in subsec. (b)(9)(C), is title I of Pub. L. 106–200, May 18, 2000, 114 Stat. 252, which is classified principally to chapter 23 (§3701 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 19 and Tables.

The Tariff Act of 1930, referred to in subsec. (e)(2)(A)(i), (B), is act June 17, 1930, ch. 497, 46 Stat. 590. Title VII of the Act is classified generally to subtitle IV (§1671 et seq.) of chapter 4 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 1654 of Title 19 and Tables.

The Trade Act of 1974, referred to in subsec. (e)(2)(A)(ii), (D), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978. Title II of the Act is classified generally to subchapter II (§2251 et seq.) of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

December 20, 2006, referred to in subsec. (e)(5), was in the original "the date of the enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 109–438, which enacted subsec. (e)(5), to reflect the probable intent of Congress.

CODIFICATION

Section 1(c) of Pub. L. 90–267 added pars. (2) to (5) of subsec. (b) and another section of Pub. L. 90–267 also designated 1(c) substituted "\$3,500,000,000" for "\$2,000,000,000" in subsec. (c)(1). See, also, 1968 Amendments hereunder.

AMENDMENTS

2019—Subsec. (b)(1)(E)(i)(I). Pub. L. 116–94, §403, added subcl. (I) and struck out former subcl. (I) which read as follows: "It is further the policy of the United States to encourage the participation of small business in international commerce."

Subsec. (b)(1)(E)(v). Pub. L. 116–94, §405, inserted at end "For the purpose of calculating the amounts of authority required under this clause, the Bank shall, with respect to insurance, exclude unutilized authorizations that terminated during the fiscal year."

Pub. L. 116–94, §404(a), substituted "30" for "25".

Subsec. (b)(1)(K). Pub. L. 116–94, §407, inserted before period at end ", energy efficiency (including battery electric vehicles, batteries for electric vehicles, and electric vehicle charging infrastructure), and energy storage. It shall be a goal of the Bank to ensure that not less than 5 percent of the applicable amount (as defined in section 635e(a)(2) of this title) is made available each fiscal year for the financing of renewable energy, energy efficiency (including battery electric vehicles, batteries for electric vehicles, and electric vehicle charging infrastructure), and energy storage technology exports".

Subsec. (f). Pub. L. 116–94, §406(1), inserted before period at end ", and shall deny an application for assistance if the end user, borrower, lender, or exporter has been convicted of an act of fraud or corruption in connection with an application for support from the Bank made in the preceding 5 years. The Bank may proceed with an application described in this subsection only if an end user, borrower, lender, or exporter can be fully excluded from the transaction".

Subsec. (i). Pub. L. 116–94, §406(2), substituted "shall require" for "should require".

Subsec. (l). Pub. L. 116–94, §402(a), added subsec. (l).

2015—Subsec. (a)(2)(A)(iii). Pub. L. 114–94, §54002(a), added cl. (iii).

Subsec. (b)(1)(E)(v). Pub. L. 114–94, §52001(a), substituted "25 percent" for "20 percent".

Subsec. (b)(1)(M). Pub. L. 114–94, §53001, added subpar. (M).

Subsec. (b)(9)(B)(iii). Pub. L. 114–94, §54001(c), substituted "the date on which the authority of the Bank expires under section 635f of this title" for "September 30, 2014".

Subsec. (d)(2). Pub. L. 114–94, §54002(b), substituted "\$25,000,000" for "\$10,000,000".

Subsec. (k). Pub. L. 114–94, §55001, added subsec. (k).

2012—Subsec. (b)(2)(B)(ii). Pub. L. 112–122, §22, redesignated subcls. (II), (III), (V), (VI), (VIII), and (IX) as (I) to (VI), respectively, and struck out subcls. (I), (IV), and (VII) which deemed Cambodian People's Republic, Lao People's Democratic Republic, and Socialist Federal Republic of Yugoslavia as Marxist-Leninist countries for purposes of par. (2).

Subsec. (b)(9)(B)(iii). Pub. L. 112–122, §23, substituted "2014" for "2011".

Subsec. (e)(7)(E) to (G). Pub. L. 112–122, §12(b), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (i). Pub. L. 112–122, §7, added subsec. (i).

Subsec. (j). Pub. L. 112–122, §8, added subsec. (j).

2006—Subsec. (b)(1)(A). Pub. L. 109–438, §13(b), (c), inserted ", including countries the governments of which are not members of the Arrangement (as defined in section 635i–3(h)(3) of this title)" after "United States exporters" in second sentence and struck out fourth to twelfth sentences which related to compliance reporting requirements.

Subsec. (b)(1)(E)(v). Pub. L. 109–438, §14(b), inserted at end "From the amount made available under the preceding sentence, it shall be a goal of the Bank to increase the amount made available to finance exports directly by small business concerns referred to in section 635a(i)(1) of this title."

Subsec. (b)(1)(E)(vii)(III). Pub. L. 109–438, §6(b)(2), inserted "or other financing institutions or entities" after "consortia".

Subsec. (b)(9)(B)(iii). Pub. L. 109–438, §3(a), substituted "2011" for "2006".

Subsec. (b)(9)(C), (D). Pub. L. 109–438, §3(b)(2), (c), added subpars. (C) and (D).

Subsec. (b)(13). Pub. L. 109–438, §11, added par. (13).

Subsec. (e)(1). Pub. L. 109–438, §7(1), inserted concluding provisions.

Subsec. (e)(2)(C). Pub. L. 109–438, §8(b), inserted "of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days)" after "comment period".

Subsec. (e)(2)(E). Pub. L. 109–438, §7(2), added subpar. (E).

Subsec. (e)(5) to (7). Pub. L. 109–438, §§5, 7(3), 8(a), added pars. (5) to (7).

Subsecs. (g), (h). Pub. L. 109–438, §12, added subsecs. (g) and (h).

2002—Subsec. (a)(1). Pub. L. 107–189, §2, substituted "The objects and purposes of the Bank shall be to aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals of any such country, and in so doing to contribute to the employment of United States workers. The Bank's objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers." for "The objects and purposes of the bank shall be to aid in financing and to facilitate exports and imports and the exchange of commodities and services between the United States or any of its Territories or insular possessions and any foreign country or the agencies or nationals thereof."

Subsec. (b)(1)(A). Pub. L. 107–189, §§11, 13(b), substituted "not later than June 30 of each year" for "on an annual basis" in fourth sentence, inserted "(including through use of market windows)" after "which foreign exporters compete with the United States exporters" in fifth sentence, inserted "With respect to the preceding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from each government and government-related agency." after fifth sentence, and inserted at end "The Bank shall include in the annual report a description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support. The Bank shall include in the annual report a description of the efforts undertaken under subparagraph (K)."

Subsec. (b)(1)(B). Pub. L. 107–189, §§15, 17, 21, 24(a)(1), substituted "Committee on Financial Services of the House of Representatives" for "Committee on Banking and Financial Services of the House of Representatives" and inserted "(including, when relevant, a foreign nation's lack of cooperation in efforts to eradicate terrorism)" after "international terrorism", "the enforcement of the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979," after "nuclear proliferation," and "(such as are provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948)" after "human rights".

Subsec. (b)(1)(E)(iii)(II). Pub. L. 107–189, §7(b), inserted ", with particular emphasis on conducting outreach and increasing loans to socially and economically disadvantaged small business concerns (as defined in section 637(a)(4) of title 15), small business concerns (as defined in section 632(a) of title 15) owned by women, and small business concerns (as defined in section 632(a) of title 15) employing fewer than 100 employees," after "Bank".

Subsec. (b)(1)(E)(v). Pub. L. 107–189, §7(a), substituted "20 percent" for "10 percent".

Subsec. (b)(1)(E)(x). Pub. L. 107–189, §8(a), added cl. (x).

Subsec. (b)(1)(H)(ii), (iii). Pub. L. 107–189, §24(b)(1), made technical amendment to reference in original act which appears in text as reference to section 5402 of title 22.

Subsec. (b)(1)(J). Pub. L. 107–189, §8(b), added subpar. (J).

Subsec. (b)(1)(K). Pub. L. 107–189, §13(a), added subpar. (K).

Subsec. (b)(1)(L). Pub. L. 107–189, §19, added subpar. (L).

Subsec. (b)(6)(D)(i)(III). Pub. L. 107–189, §24(a)(2)(A), substituted "Committee on Financial Services of the House of Representatives" for "Committee on Banking, Finance and Urban Affairs of the House of Representatives".

Subsec. (b)(6)(E). Pub. L. 107-189, §24(b)(3), substituted "internationally" for "international".

Subsec. (b)(6)(H). Pub. L. 107-189, §24(a)(2)(B), substituted "Committee on Financial Services of the House of Representatives" for "Committee on Banking, Finance and Urban Affairs of the House of Representatives".

Subsec. (b)(6)(I)(i)(II), (iii). Pub. L. 107-189, §24(a)(2)(C), (D), substituted "Committees on Financial Services" for "Committees on Banking, Finance and Urban Affairs".

Subsec. (b)(9)(A). Pub. L. 107-189, §6(b), inserted ", in consultation with the Secretary of Commerce and the Trade Promotion Coordinating Committee," after "shall".

Subsec. (b)(9)(B)(iii). Pub. L. 107-189, §6(a), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "The advisory committee shall terminate 4 years after November 26, 1997."

Subsec. (b)(12). Pub. L. 107-189, §24(b)(2), realigned margins.

Subsec. (e)(2) to (4). Pub. L. 107-189, §18, substituted "Paragraphs (1) and (2)" for "Paragraph (1)" in par. (2), added a new par. (2), and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f). Pub. L. 107-189, §16, added subsec. (f).

2000—Subsec. (b)(1)(A). Pub. L. 106-569, §1103(d)(1), substituted "The Bank shall, on an annual basis, report" for "The Bank shall, on a annual basis, report" and inserted at end "The annual report required under this subparagraph shall include the report required under section 635i-3(g) of this title."

Subsec. (b)(1)(D). Pub. L. 106-569, §1104(a)(1), struck out "(i)" after "(D)" and struck out cl. (ii) which read as follows: "The Bank shall include in its annual report a summary of its programs regarding the export of services."

Subsec. (b)(8). Pub. L. 106-569, §1104(a)(2), struck out at end "The Bank shall include in the report to Congress under section 635g(a) of this title a description of the measures undertaken by it pursuant to this subsection."

1997—Subsec. (b)(1)(A). Pub. L. 105-121, §10, in first sentence, substituted "real income, a commitment to reinvestment and job creation, and the increased development of the productive resources of the United States" for "real income and to the increased development of the productive resources of the United States".

Subsec. (b)(1)(B). Pub. L. 105-121, §11, inserted "(including child labor)" after "human rights" in penultimate sentence.

Pub. L. 105-121, §5(2), inserted at end "Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest."

Pub. L. 105-121, §5(1), in penultimate sentence, inserted ", after consultation with the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate," after "President".

Subsec. (b)(1)(I). Pub. L. 105-121, §9, added subpar. (I).

Subsec. (b)(9). Pub. L. 105-121, §7(a), added par. (9).

Subsec. (b)(12). Pub. L. 105-121, §12, added par. (12).

1996—Subsec. (b)(4). Pub. L. 104-201 amended par. (4) generally, restating provisions of former single par. as subpars. (A) to (F) with addition of provisions relating to persons knowingly aiding or abetting non-nuclear-weapon states to acquire nuclear explosive devices or unsafeguarded special nuclear material and requiring Secretary of State to initiate consultations with governments having jurisdiction over such persons.

1994—Subsec. (b)(4). Pub. L. 103-236 inserted "(as defined in section 6305(4) of title 22), or that any country has willfully aided or abetted any non-nuclear-weapon state (as defined in section 6305(5) of title 22) to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 6305(8) of title 22)." after "device" at end of first sentence.

Subsec. (b)(6)(C)(ii). Pub. L. 103-447 substituted "defined in section 2291(e) of title 22" for "determined under section 2291j(h) or 2291(e), as appropriate, of title 22".

Subsec. (b)(6)(H). Pub. L. 103-428, §1(b), (c), temporarily inserted "or described in subparagraph (I)(i)" before period at end of first sentence. See Effective and Termination Dates of 1994 Amendments note below.

Subsec. (b)(6)(I). Pub. L. 103-428, §1(a), (c), temporarily added subpar. (I). See Effective and Termination Dates of 1994 Amendments note below.

1993—Subsec. (b)(9). Pub. L. 103-149 struck out par. (9) which prohibited the Bank from taking certain actions with respect to business affecting Republic of South Africa.

1992—Subsec. (a)(3). Pub. L. 102-429, §121(a)(1), struck out "(A) IN GENERAL.—" before "To enhance the medium-term", redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively, and struck out former subpar. (B) which read as follows: "REPORT REQUIRED.—Not later than April 15, 1988, the Bank shall transmit a report to the Congress analyzing the measures adopted to enhance medium-term financing."

Subsec. (b)(1)(A). Pub. L. 102-429, §121(a)(2), added sentence at end and struck out former last sentence which read as follows: "The Bank shall also include in the annual report a description of each loan by the Bank involving the export of any product or service related to the production, refining or transportation of any type of energy or the development of any energy resource with a statement assessing the impact, if any, on the availability of such products, services, or energy supplies thus developed for use within the United States."

Subsec. (b)(1)(B). Pub. L. 102-429, §104, inserted after first semicolon in fifth sentence "that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;"

Subsec. (b)(1)(E)(v). Pub. L. 102-429, §121(a)(3), substituted "not less than 10 percent of such authority for each fiscal year." for "not less than—

"(I) 6 per centum of such authority for fiscal year 1984;

"(II) 8 per centum of such authority for fiscal year 1985; and

"(III) 10 per centum of such authority for fiscal year 1986 and thereafter."

Pub. L. 102-429, §116, inserted "directly" after "to finance exports".

Subsec. (b)(1)(H). Pub. L. 102-429, §114, added subpar. (H).

Subsec. (b)(2)(B). Pub. L. 102-429, §110, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

"(i) IN GENERAL.—For the purposes of this paragraph, the term 'Marxist-Leninist country' means any country which—

"(I) maintains a centrally planned economy based on the principles of Marxist-Leninism, or

"(II) is economically and militarily dependent on the Union of Soviet Socialist Republics or on any other Marxist-Leninist country.

"(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in the manner provided in subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

"Cambodian People's Republic.

"Cooperative Republic of Guyana.

"Czechoslovak Socialist Republic.

"Democratic People's Republic of Korea.

"Democratic Republic of Afghanistan.

"Estonia.

"German Democratic Republic.

"Hungarian People's Republic.

"Lao People's Democratic Republic.

"Latvia.

"Lithuania.

"Mongolian People's Republic.

"People's Democratic Republic of Yemen.

"People's Republic of Albania.

"People's Republic of Angola.

"People's Republic of Benin.

"People's Republic of Bulgaria.

"People's Republic of China.

"People's Republic of the Congo.

"People's Republic of Mozambique.

"Polish People's Republic.

"Republic of Cuba.

"Republic of Nicaragua.

"Socialist Ethiopia.

"Socialist Federal Republic of Yugoslavia.

"Socialist Republic of Romania.

"Socialist Republic of Vietnam.

"Surinam.

"Tibet.

"Union of Soviet Socialist Republics (including its captive constituent republics)."

Subsec. (b)(6)(A). Pub. L. 102-583, §12(c)(1)(A), which directed the substitution of ", except as otherwise

provided in subparagraph (B)." for "designated" and all that follows through the end of the subparagraph could not be executed because the words did not appear subsequent to the amendment by Pub. L. 102-429, §112(d)(1). See below.

Pub. L. 102-429, §112(d)(1), struck out before period at end "designated under section 4916 of title 26 as an economically less developed country for purposes of the tax imposed by section 4911 of title 26. The prohibitions set forth in this subparagraph shall not apply with respect to any transaction the consummation of which the President determines would be in the national interest and reports such determination (within thirty days after making the same) to the Senate and House of Representatives. In making any such determination the President shall take into account, among other considerations, the national interest in avoiding arms races among countries not directly menaced by the Soviet Union or by Communist China; in avoiding arming military dictators who are denying social progress to their own peoples; and in avoiding expenditures by developing countries of scarce foreign exchange needed for peaceful economic progress".

Subsec. (b)(6)(B). Pub. L. 102-429, §112(d)(2)(A), struck out ", and section 32 of the Arms Export Control Act," after "Subparagraph (A)".

Subsec. (b)(6)(B)(iii). Pub. L. 102-583, §6(c)(1), substituted "section 2291j(e) of title 22" for "section 2291(h)(5) of title 22".

Subsec. (b)(6)(B)(iv), (v). Pub. L. 102-429, §112(a)(1), (2), (d)(2)(B), inserted "and" at end of cl. (iv) and substituted "articles or services." for "articles and services; and" at end of cl. (v).

Subsec. (b)(6)(B)(vi). Pub. L. 102-583, §12(a), which directed the substitution of "1997" for "1992" in cl. (vi), could not be executed because cl. (vi) was struck out by Pub. L. 102-429, §112(a)(3). See below.

Pub. L. 102-429, §112(a)(3), struck out cl. (vi) which read as follows: "the sale is made on or before September 30, 1992."

Subsec. (b)(6)(C)(ii). Pub. L. 102-583, §6(c)(2), substituted "determined under section 2291j(h) or 2291(e), as appropriate, of title 22" for "defined in section 2291(i) of title 22".

Subsec. (b)(6)(D)(i). Pub. L. 102-429, §112(b), (d)(3), struck out "and" at end of subcl. (I), added subcl. (II), redesignated former subcl. (II) as (III), and substituted "determinations have" for "determination has" in subcl. (III).

Subsec. (b)(6)(D)(ii). Pub. L. 102-429, §112(d)(4), substituted "clause" for "sentence" before period at end.

Subsec. (b)(6)(G). Pub. L. 102-429, §112(d)(5), substituted "or services" for "and services".

Subsec. (b)(6)(H). Pub. L. 102-429, §112(c), added subpar. (H).

Subsec. (b)(11), (12). Pub. L. 102-429, §111, redesignated par. (12) as (11), substituted "The President" for "Notwithstanding any determination by the President under paragraph (2) or (11), the", and struck out former par. (11) which read as follows: "PROHIBITION RELATING TO ANGOLA.—Notwithstanding any determination by the President under paragraph (2), the Bank may not guarantee, insure, or extend credit (or participate in the extension of credit) in connection with any export of goods or services, except food or agricultural commodities, to the People's Republic of Angola until the President certifies to the Congress that no combatant forces or military advisors of the Republic of Cuba or of any other Marxist-Leninist country (as such term is defined in paragraph (2)(B)) remain in Angola."

Subsec. (c)(1). Pub. L. 102-429, §109(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Bank is authorized and empowered to charge against the limitations imposed by section 635e of this title, not less than 25 per centum of the related contractual liability which the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss. The aggregate amount of guarantees, insurance, coinsurance, and reinsurance which may be charged on this fractional basis pursuant to this section shall not exceed \$25,000,000,000 outstanding at any one time. Fees and premiums shall be charged in connection with such contracts commensurate, in the judgment of the Bank, with risks covered."

Subsec. (c)(3). Pub. L. 102-429, §105, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (d)(2) to (5). Pub. L. 102-429, §107, added pars. (2) to (5) and struck out former pars. (2) and (3) which read as follows:

"(2) In furtherance of such effort, the Chairman of the Bank shall review Bank policies and programs in regard to this issue, and in coordination with the United States Trade Representative and the appropriate agencies of the Department of State, the Department of the Treasury, and the Department of Commerce, undertake actions designed to promote equal and nondiscriminatory opportunities to bid for insurance in connection with all aspects of international trade activities.

"(3) The Bank shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than May 15, 1984, regarding—

"(A) the existing obstacles to equal and nondiscriminatory bidding for insurance related to transactions

assisted by the Bank;

"(B) the efforts that the Bank has taken in addressing such problems; and

"(C) recommendations for such legislative or administrative actions as the Bank considers necessary."

Subsec. (f). Pub. L. 102-429, §121(a)(4), struck out subsec. (f) which related to interest subsidy payments.

1991—Subsec. (b)(3). Pub. L. 102-145, §121(2), (3), as added by Pub. L. 102-266, amended par. (3) in introductory provisions by redesignating cl. (iii) as (ii) and striking out "(ii) in an amount which equals or exceeds \$25,000,000 for the export of goods or services involving research, exploration, or production of fossil fuel energy resources in the Union of Soviet Socialist Republics,".

1990—Subsec. (b)(6)(B)(vi). Pub. L. 101-513 and Pub. L. 101-623 amended cl. (vi) identically, substituting "1992" for "1990".

1989—Subsec. (a)(1). Pub. L. 101-240, §101(c), substituted "Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, the Bank may" for "The Bank may" in sixth sentence and inserted before period ", and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5" and inserted before period in seventh sentence "and shall be offset against the expenses of the Bank for such activities".

Subsec. (b)(6)(G). Pub. L. 101-240, §101(d), substituted "subparagraphs (B), (C), (D), and (F)" for "this paragraph".

Subsec. (b)(12). Pub. L. 101-240, §102, added par. (12).

Subsec. (f)(2). Pub. L. 101-240, §101(a)(1), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "AUTHORITY TO MAKE PAYMENTS SUBJECT TO MINIMUM AMOUNT OF DIRECT LOAN AUTHORITY.—The authority to enter into commitments to make interest subsidy payments under paragraph (1) shall be effective for any fiscal year only if the aggregate principal amount of direct loans the Bank may obligate in such fiscal year is equal to or greater than \$700,000,000."

Subsec. (f)(3). Pub. L. 101-240, §101(a)(1), (2), redesignated par. (4) as (3) and amended it generally. Prior to amendment, such par. read as follows:

"(A) IN GENERAL.—Subject to subparagraph (B), there are authorized to be appropriated to the Bank, for any fiscal year beginning after fiscal year 1986, such sums as may be necessary to carry out the purposes of this subsection.

"(B) BUDGET SCORING.—No amount is authorized to be appropriated for commitments to make interest subsidy payments on loans for which the Bank extends a loan guarantee commitment if any amount of such loan guarantee commitment is scored as budget authority in any estimate of budget authority prepared pursuant to any provision of the Congressional Budget and Impoundment Control Act of 1974." Former par. (3) redesignated (2).

Subsec. (f)(4), (5). Pub. L. 101-240, §101(a)(1), (3), redesignated par. (5) as (4) and substituted "1991" for "1988". Former par. (4) redesignated (3).

1988—Subsec. (b)(6). Pub. L. 100-690 designated existing provision as subpar. (A), substituted "subparagraph" for "paragraph", and added subpars. (B) to (G).

Subsec. (e)(1)(A)(i). Pub. L. 100-418, §3304(a), substituted "commodity will first be sold" for "productive capacity is expected to become operative".

Subsec. (e)(2). Pub. L. 100-418, §3304(b), substituted "short- and long-term injury" for "injury" and "producers and employment" for "producers".

Subsec. (e)(3). Pub. L. 100-418, §3304(c), added par. (3).

1986—Subsec. (a)(1). Pub. L. 99-472, §2, inserted provisions which related to imposition and collection of reasonable fees by Bank to cover costs of conferences and seminars sponsored, and publications provided, by Bank, and credit of amounts thus received to fund which initially paid for such activities.

Subsec. (a)(3). Pub. L. 99-472, §4, added par. (3).

Subsec. (b)(1)(B). Pub. L. 99-472, §§3, 5, substituted "need not be identical in all respects to those" for "need not be equivalent to those" and inserted provisions which prohibited Bank from imposing credit application fee unless Bank's fee is competitive with average fee charged by Bank's primary foreign competitors, and option of paying fee at outset of, or over life of, loan is given to borrower or exporter, and present value of fee determined under either option is same amount.

Subsec. (b)(1)(E)(ix). Pub. L. 99-472, §6, added cl. (ix).

Subsec. (b)(1)(G). Pub. L. 99-472, §7, added subpar. (G).

Subsec. (b)(2). Pub. L. 99-472, §8, amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit—

"(A) in connection with the purchase or lease of any product by a Communist country (as defined in section 2370(f) of title 22), or agency, or national thereof, or

"(B) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Communist country (as so defined), unless the President determines that guarantees, insurance, or extensions of credit in connection therewith to such Communist or such other country or agency or national thereof would be in the national interest. The President shall make a separate determination with respect to each transaction in which the bank would extend a loan to such Communist or other country, or agency, or national thereof an amount of \$50,000,000 or more. Any determination required under the first sentence of this paragraph shall be reported to the Congress not later than the earlier of thirty days following the date of such determination, or the date on which the Bank takes final action on a transaction which is the first transaction involving such country or agency or national after January 4, 1975, unless a determination with respect to such country or agency or national has been made and reported prior to January 4, 1975. Any determination required to be made under the second sentence of this paragraph shall be reported to the Congress not later than the earlier of thirty days following the date of such determination or the date on which the Bank takes final action on the transaction involved."

Subsec. (b)(6). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (b)(9). Pub. L. 99-440 designated existing provisions of par. (9) as subpar. (A), substituted "Except as provided in subparagraph (B), in no event" for "In no event", and added subpar. (B).

Subsec. (b)(11). Pub. L. 99-472, §9, added par. (11).

Subsec. (c)(3). Pub. L. 99-472, §10, added par. (3).

Subsecs. (e), (f). Pub. L. 99-472, §§11, 20(a), added subsecs. (e) and (f).

1983—Subsec. (a)(1). Pub. L. 98-181, §616(a)(1), substituted "the exchange of commodities and services" for "the exchange of commodities".

Subsec. (a)(2). Pub. L. 98-181, §622, added par. (2).

Subsec. (b)(1)(A). Pub. L. 98-181, §§612(a), 616(a)(2), in second sentence inserted "in all its programs" after "To meet this objective", inserted "fully" after "other conditions which are", and substituted "exports of goods and services" for "exports".

Subsec. (b)(1)(B). Pub. L. 98-181, §§612(b), (c), 618(a)(1), substituted provisions that loans under this section shall bear interest at rates consistent with the Bank's mandate to support exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements, and that such rates, terms and conditions need not be equivalent to those offered by foreign countries, but should be established so as to neutralize the effect of such foreign credit on international sales competition, and that the Board shall consider its average cost of money in determination of interest rates, where such consideration does not impair the Bank's function of expanding exports through fully competitive financing for provisions that loans made by the Bank had to be at interest at rates determined by the Board of Directors of the Bank, taking into consideration the average cost of money to the Bank as well as the Bank's mandate to support United States exports at rates and on terms and conditions which were competitive with exports of other countries; inserted "export trading companies," after "independent export firms,"; and struck out provision which required the Bank to give due recognition to the policy stated in section 631(a) of Title 15 that the government should aid, counsel, assist, and protect the interests of small business in order to preserve free competitive enterprise, and that in furtherance of this policy the Board of Directors had to designate an officer of the Bank to handle small business concerns, including advising small businessmen and maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.

Subsec. (b)(1)(D). Pub. L. 98-181, §616(a)(3), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 98-181, §618(a)(2), added subpar. (E).

Subsec. (b)(1)(F). Pub. L. 98-181, §618(c), added subpar. (F).

Subsec. (b)(3). Pub. L. 98-181, §619(b), substituted "no loan or financial guarantee or general guarantee or insurance facility" for "no loan or financial guarantee" in provisions preceding subpar. (A).

Subsec. (b)(3)(A). Pub. L. 98-181, §619(c), inserted language limiting existing provisions to loans or financial guarantees, designated existing provisions as cls. (i), (ii), and (iii), and added cl. (iv).

Subsec. (b)(4). Pub. L. 98-181, §620(a), substituted "the Secretary" for "he" before "determines that any country" in first sentence, and before "has determined to have so acted" in second sentence.

Subsec. (b)(7) to (10). Pub. L. 98-181, §619(d), redesignated second par. (7) and par. (8), as added by Pub. L. 95-630, as pars. (8) and (9), respectively, and added par. (10).

Subsec. (d). Pub. L. 98-181, §617, added subsec. (d).

1980—Subsec. (b)(1)(A). Pub. L. 96-470 substituted "annual" for "semiannual" in three places.

1978—Subsec. (b)(1)(A). Pub. L. 95-630, §1910, substituted "manufactured goods, agricultural products,

and other goods and services" for "goods and related services".

Subsec. (b)(1)(B). Pub. L. 95-630, §§1904, 1916, inserted "that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives;" after "in matters affecting small business concerns;" and substituted "and shall give particular emphasis to the objective of strengthening the competitive position of the United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations" for "and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country".

Subsec. (b)(1)(C). Pub. L. 95-630, §1907(a), added subpar. (C).

Subsec. (b)(3). Pub. L. 95-630, §1902, substituted "Except as provided by the fourth sentence of this paragraph, no loan" for "No loan" and "\$100,000,000" for "\$60,000,000" and inserted provisions following subpar. (B).

Subsec. (b)(7) to (9). Pub. L. 95-630, §§1909, 1915, added a second par. (7) and par. (8), which were editorially designated pars. (8) and (9). See 1983 Amendment note above.

Subsec. (c)(1). Pub. L. 95-630, §1903, substituted "\$25,000,000,000" for "\$20,000,000,000".

1977—Subsec. (b)(1)(A). Pub. L. 95-143, §1, inserted "and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing" after "government-supported export financing".

Subsec. (b)(1)(B). Pub. L. 95-143, §2, inserted ", and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country" after "employment in the United States".

Subsec. (b)(3). Pub. L. 95-143, §3(a), inserted "(i)" after "No loan or financial guarantee or combination thereof" and ", or (iii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities," after "Union of Soviet Socialist Republics" and substituted ", (ii) in an amount" for "shall be finally approved by the Board of Directors of the Bank, and no loan or financial guarantee or combination thereof".

Subsec. (b)(4) to (7). Pub. L. 95-143, §3(b), (c), added par. (4), redesignated former par. (4) as (5) and, as so redesignated, added cl. (C), and redesignated former pars. (5) and (6) as (6) and (7), respectively.

1975—Subsec. (a)(1). Pub. L. 93-646, §2, inserted provisions authorizing the Bank to guarantee, insure, coinsure, and reinsure against political and credit risks of loss, to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States, and to publish any documents, reports, etc., without regard to section 501 of title 44, whenever compliance with such section would not be practicable.

Subsec. (a)(2). Pub. L. 93-646, §13, eff. at the close of Sept. 30, 1976, repealed par. (2), which related to inclusion of receipts and disbursements of the bank in the federal budget and exemption of such receipts and disbursements from budget limitations, to the transmittal to Congress of a budget for program activities and for administrative expenses of the bank, and to the annual report of the net lending of the bank.

Subsec. (b)(1). Pub. L. 93-646, §3, designated existing provisions as subpars. (A) and (B), and as so designated, substituted provisions requiring a comparison of the rates and terms of the Bank with other countries for provisions requiring a report to include ways in which the Bank's terms are equal to or superior to those of other countries, and inserted provisions requiring the appointment of a Bank officer to be responsible for all matters affecting small business, and to act as liaison with the Small Business Administration and other agencies in matters affecting small business concerns, in order to carry out the policy of the Small Business Act.

Subsec. (b)(2). Pub. L. 93-646, §4, inserted provision requiring a separate Presidential determination of national interest with respect to each transaction over \$50,000,000, and substituted provision requiring a report to Congress either within 30 days of the President's finding or on the day the Bank takes final action on the proposed credit, whichever is earlier, for provision requiring a report of his finding to Congress within thirty days after making such finding.

Subsec. (b)(3) to (6). Pub. L. 93-646, §5, added par. (3) and redesignated former pars. (3), (4), and (5) as

(4), (5) and (6), respectively.

Subsec. (c)(1). Pub. L. 93-646, §6, removed the \$10 billion limit on the Bank's insurance authority, and increased the Bank's authority to charge such guarantees and insurance on a fractional charge basis from \$10 billion to \$20 billion.

1971—Subsec. (a). Pub. L. 92-126, §1(b)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 92-126, §1(b)(6), inserted provisions declaring the policy of the United States to be to foster expansion of goods and related services, contributing to the proposition and maintenance of high levels of employment and real income and to the increased development of the productive resources of the United States and laid down directives to achieve this objective.

Subsec. (b)(3). Pub. L. 92-126, §1(b)(5), substituted provisions prohibiting the Bank from extending assistance in export sales to any nation which engages in armed conflict with the United States or to any other nation when the export is to be used principally by or in any nation which engages in armed conflict with the United States and further prohibiting such assistance to any export sales which the President determines would be contrary to the national interest for provisions placing limitations on the Bank's activity in connection with any nation which supplies goods or assistance to a country with whom the United States is engaged in armed conflict.

Subsec. (c)(1). Pub. L. 92-126, §1(b)(2), increased the amount of insurance outstanding at any one time from "\$3,500,000,000" to "\$10,000,000,000".

1968—Subsec. (a). Pub. L. 90-267, §1(a), changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

Subsec. (b)(1). Pub. L. 90-267, §1(b), designated existing provisions as par. (1) and required the Board of Directors when authorizing loans to take into account the possible adverse effects upon the economy of the United States.

Subsec. (b)(2) to (5). Pub. L. 90-267, §1(c), added pars. (2) to (5).

Subsec. (c)(1). Pub. L. 90-267, §1(a), (c), increased amount of insurance outstanding at any one time from \$2,000,000,000 to \$3,500,000,000 and changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

1963—Subsec. (c)(1). Pub. L. 88-101 substituted "\$2,000,000,000" for "\$1,000,000,000".

1961—Subsec. (c). Pub. L. 87-311 amended subsection generally, and among other changes, authorized the Bank to guarantee, insure, coinsure, and reinsure United States exporters and foreign exporters doing business in the United States, increased the maximum amount of insurance, etc., outstanding at any one time to \$1,000,000,000, limited the types of risks the Bank would insure, etc., to political and credit risks, required reserves to be maintained at not less than 25 per centum of the related contractual liability of the Bank, provided that for contracts of insurance, etc., only the Bank's liabilities represented by the aforementioned reserves shall be considered for purposes of applying the limitations of section 635e of this title, required the charging of fees and premiums, and authorized issuance of insurance, etc., to exporters, insurance companies, financial institutions, or others, and where appropriate, to employ any of the same as agent, and struck out provisions authorizing insurance for the benefit of United States citizens against loss of tangible personal property of United States origin, exported from the United States, and located in a friendly country, from hostile or warlike actions including internal strife, or from governmental confiscation or expropriation, to the extent owned by the assured or constituting security for obligations owed the assured, limiting the issuance of insurance to the extent that it could not be obtained from private companies authorized to do business in the United States, or from United States Government agencies providing marine or air war-risk insurance, permitting reinsurance of companies authorized to do an insurance business in the United States, or to use such company or companies as agent, and limiting the term of coverage of any insurance issued to one year, subject to renewals or extensions, from time to time, of one year periods.

1953—Subsec. (c). Act May 21, 1953, added subsec. (c).

1947—Subsec. (a). Act June 9, 1947, provided for the reincorporation of the Bank as a corporate agency of the United States and specifically provided for the following powers which the bank formerly possessed by implication: (1) to acquire stock through the enforcement of any lien or pledge or to satisfy an indebtedness; (2) to sue and be sued, to complain and defend in any court of competent jurisdiction; (3) to use the United States mails as any other executive department; and (4) after provision for possible losses to use the net earnings as dividends on capital stock and to deposit said dividends as miscellaneous receipts in the Treasury.

1945—Subsec. (a). Act Dec. 28, 1945, inserted "(or the Philippine Islands)" after "any foreign country".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–94, div. I, title IV, §404(b), Dec. 20, 2019, 133 Stat. 3023, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2021."

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. E, title LII, §52001(b), Dec. 4, 2015, 129 Stat. 1767, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal year 2016 and each fiscal year thereafter."

Pub. L. 114–94, div. E, title LIV, §54001(d), Dec. 4, 2015, 129 Stat. 1768, provided that: "The amendments made by this section [amending this section and section 635f of this title and provisions set out as a note under this section] shall take effect on the earlier of the date of the enactment of this Act [Dec. 4, 2015] or June 30, 2015."

Pub. L. 114–94, div. E, title LIV, §54002(e), Dec. 4, 2015, 129 Stat. 1769, provided that: "The amendments made by this section [amending this section and sections 635a and 635i–5 of this title] shall apply with respect to fiscal year 2016 and each fiscal year thereafter."

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–122, §25, May 30, 2012, 126 Stat. 364, provided that: "Except as provided in section 9(b) [enacting provisions set out as a note under section 635a of this title], this Act [see Short Title of 2012 Amendment note set out below] and the amendments made by this Act shall take effect on the earlier of June 1, 2012, or the date of the enactment of this Act [May 30, 2012]."

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENTS

Pub. L. 103–428, §1(c), Oct. 31, 1994, 108 Stat. 4376, as amended by Pub. L. 105–121, §4, Nov. 26, 1997, 111 Stat. 2529; Pub. L. 109–438, §4, Dec. 20, 2006, 120 Stat. 3269; Pub. L. 112–122, §24, May 30, 2012, 126 Stat. 364; Pub. L. 112–136, §1, June 21, 2012, 126 Stat. 385; Pub. L. 114–94, div. E, title LIV, §54001(b), Dec. 4, 2015, 129 Stat. 1768, provided that: "The amendments made by this section [amending this section] shall remain in effect during the period beginning on the date of enactment of this Act [Oct. 31, 1994] and ending on the date on which the authority of the Export-Import Bank of the United States expires under section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f)."

[Pub. L. 113–235, div. J, title VI, Dec. 16, 2014, 128 Stat. 2598, provided in part: "That notwithstanding section 1(c) of Public Law 103–428 [set out above], as amended, sections 1(a) and (b) of Public Law 103–428 [amending this section] shall remain in effect through October 1, 2015."]

[Prior similar extensions of section 1(a) and (b) of Pub. L. 103–428 were contained in the following acts:

[Pub. L. 113–76, div. K, title VI, Jan. 17, 2014, 128 Stat. 489.

[Pub. L. 112–74, div. I, title VI, Dec. 23, 2011, 125 Stat. 1191.

[Pub. L. 111–117, div. F, title VI, Dec. 16, 2009, 123 Stat. 3341.

[Pub. L. 111–8, div. H, title VI, Mar. 11, 2009, 123 Stat. 858.

[Pub. L. 110–161, div. J, title II, Dec. 26, 2007, 121 Stat. 2289.

[Pub. L. 109–102, title I, Nov. 14, 2005, 119 Stat. 2172.

[Pub. L. 108–447, div. D, title I, Dec. 8, 2004, 118 Stat. 2968.

[Pub. L. 108–199, div. D, title I, Jan. 23, 2004, 118 Stat. 143.

[Pub. L. 108–7, div. E, title I, Feb. 20, 2003, 117 Stat. 159.

[Pub. L. 107–229, §129, as added by Pub. L. 107–240, §5, Oct. 11, 2002, 116 Stat. 1494.]

[For provisions continuing functions of Export-Import Bank of the United States through June 14, 2002, notwithstanding section 1(c) of Pub. L. 103–428, set out above, see Continuation of Bank Functions note set out under section 635f of this title.]

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–630, title XIX, §1917, Nov. 10, 1978, 92 Stat. 3727, provided that: "This title [enacting sections 635a–1 to 635a–3 of this title and section 2153e–1 of Title 42, The Public Health and Welfare, and amending this section and sections 635e to 635g of this title] shall take effect upon enactment [Nov. 10, 1978]."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–94, div. E, §50001, Dec. 4, 2015, 129 Stat. 1763, provided that: "This division [enacting section 635a–7 of this title, amending this section and sections 635a, 635a–5, 635a–6, 635e to 635g, and

635i-5 of this title, enacting provisions set out as notes under this section and sections 635a, 635a-5, 635e, and 635g of this title, and amending provisions set out as a note under this section] may be cited as the 'Export-Import Bank Reform and Reauthorization Act of 2015'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112-122, §1(a), May 30, 2012, 126 Stat. 350, provided that: "This Act [enacting sections 635a-5 and 635a-6 of this title, amending this section and sections 635a and 635e to 635g of this title, enacting provisions set out as notes under this section and sections 635a and 635a-2 of this title, and amending provisions set out as a note under this section] may be cited as the 'Export-Import Bank Reauthorization Act of 2012'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-438, §1(a), Dec. 20, 2006, 120 Stat. 3268, provided that: "This Act [enacting section 635g-1 of this title, amending this section and sections 635a, 635e, 635f, 635g, 635i-3, and 635i-5 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under this section] may be cited as the 'Export-Import Bank Reauthorization Act of 2006'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-189, §1(a), June 14, 2002, 116 Stat. 698, provided that: "This Act [enacting section 635i-9 of this title, amending this section, sections 635a, 635e to 635g, 635i-3, 635i-6, and 635i-8 of this title, section 5315 of Title 5, Government Organization and Employees, sections 9 and 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, and section 1105 of Title 31, Money and Finance, enacting provisions set out as notes under this section, sections 635a, 635g, and 635i-9 of this title, and section 5315 of Title 5, and amending provisions set out as a note under this section] may be cited as the 'Export-Import Bank Reauthorization Act of 2002'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-121, §1(a), Nov. 26, 1997, 111 Stat. 2528, provided that: "This Act [amending this section and sections 635a, 635f, and 635i-3 of this title, enacting provisions set out as notes under this section and section 635f of this title, and amending provisions set out as a note under this section] may be cited as the 'Export-Import Bank Reauthorization Act of 1997'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-429, §1(a), Oct. 21, 1992, 106 Stat. 2186, provided that: "This Act [enacting sections 635i-5 to 635i-7 of this title, section 831 of Title 2, The Congress, and sections 4727 to 4729 of Title 15, Commerce and Trade, amending this section and sections 635a, 635b, 635e, 635f, and 635i-3 of this title, and sections 4052 and 4721 of Title 15, repealing sections 635c, 635i to 635i-2, and 635i-4 of this title, section 713b of Title 15, and section 2772 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under this section, section 635a of this title, and section 4728 of Title 15] may be cited as the 'Export Enhancement Act of 1992'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-418, title III, §3301, Aug. 23, 1988, 102 Stat. 1383, provided that: "This subtitle [subtitle D (§§3301-3304) of title III of Pub. L. 100-418, amending this section and section 635i-3 of this title and enacting provisions set out as a note under section 635i-3 of this title] may be cited as the 'Export-Import Bank and Tied Aid Credit Amendments of 1988'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-472, §1, Oct. 15, 1986, 100 Stat. 1200, provided that: "This Act [enacting section 635i-3 of this title and section 262h of Title 22, Foreign Relations and Intercourse, amending this section and sections 635a, 635a-2, 635a-3, and 635e to 635g of this title, and enacting provisions set out as a note under section 635g of this title] may be cited as the 'Export-Import Bank Act Amendments of 1986'."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-181, title I [title VI, §601], Nov. 30, 1983, 97 Stat. 1254, provided that: "This title [enacting sections 635i-1, 635i-2, and 635o-635t of this title and section 1671g of Title 19, Customs Duties, amending this section, sections 635a, 635a-2, 635a-3, 635a-4, 635b, 635e, 635f, and 635g of this title, and sections 1671a and 1671b of Title 19, and enacting provisions set out as notes under sections 635a and 635o of this title] may be cited as the 'Export-Import Bank Act Amendments of 1983'."

For short title of title I [part C (§§641-647) of title VI] of Pub. L. 98-181, which enacted subchapter III

(§635o et seq.) of this chapter and section 1671g of Title 19 and amended sections 1671a and 1671b of Title 19, as the "Trade and Development Enhancement Act of 1983", see Short Title note set out under section 635o of this title.

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title III, §380, Aug. 13, 1981, 95 Stat. 431, provided that: "This subtitle [subtitle B (§§380–385) of title III of Pub. L. 97–35, amending sections 461 and 635e of this title, and section 369 of former Title 31, Money and Finance, enacting provisions set out as a note under section 369 of former Title 31, and amending provisions set out as notes under sections 1735f–7 and 1904 of this title] may be cited as the 'Banking and Related Programs Authorization Adjustment Act'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–630, title XIX, §1901, Nov. 10, 1978, 92 Stat. 3724, provided: "That this title [enacting sections 635a–1 to 635a–3 of this title and section 2153e–1 of Title 42, The Public Health and Welfare, amending this section and sections 635e to 635g of this title, and enacting provisions set out as a note under this section] may be cited as the 'Export-Import Bank Act Amendments of 1978'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 93–646, §1, Jan. 4, 1975, 88 Stat. 2333, provided that: "This Act [amending this section and sections 82 and 635d to 635g of this title and enacting provisions set out as notes under this section] may be cited as the 'Export-Import Bank Amendments of 1974'."

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 92–126, §1(a), Aug. 17, 1971, 85 Stat. 345, provided that: "This Act [amending this section and sections 635e and 635f of this title and enacting provisions set out as notes under section 95a of this title] may be cited as the 'Export Expansion Finance Act of 1971'."

SHORT TITLE

Act July 31, 1945, ch. 341, §1, 59 Stat. 526, provided: "That this Act [this subchapter] may be cited as the 'Export-Import Bank Act of 1945'."

RULE OF CONSTRUCTION

Pub. L. 116–94, div. I, title IV, §402(c), Dec. 20, 2019, 133 Stat. 3023, provided that: "Nothing in section 2(l)(1)(B) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(l)(1)(B)] shall be construed to weaken any export controls affecting critical technologies (as defined in section 721(a)(6)(A) of the Defense Production Act of 1950 (50 U.S.C. 4565(a)(6)(A)))."

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of Title 22, Foreign Relations and Intercourse, and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of Title 22.

BOARD OF DIRECTORS

A Board of Directors was reestablished for the Export-Import Bank of Washington by section 1 of act Aug. 9, 1954, ch. 660, 68 Stat. 677, amending section 635a of this title. The Board had previously been abolished and its functions transferred to the Managing Director of the Bank by Reorg. Plan No. 5 of 1953, eff. June 30, 1953, 18 F.R. 3741, 67 Stat. 637, set out as a note under section 635a of this title. The 1953 Reorg. Plan was superseded by sections 1, 4 of act Aug. 9, 1954. See section 635a of this title and 1954 Amendment and Effective Date of 1954 Amendment notes thereunder.

HISTORY OF BANK

The Export-Import Bank of Washington was organized as a District of Columbia banking corporation under Ex. Ord. No. 6581, Feb. 2, 1934. It was continued as an agency of the United States by act Jan. 31, 1935, ch. 2, §9, 49 Stat. 4, formerly set out as section 713b of Title 15, Commerce and Trade, as amended by acts Jan. 26, 1937, ch. 6, §2(a), 50 Stat. 5; Mar. 4, 1939, ch. 5, §1(b)(c), 53 Stat. 510; Mar. 2, 1940, ch. 34, 54 Stat. 38; Sept. 26, 1940, ch. 734, §3, 54 Stat. 962, and repealed by section 10 of act July 31, 1945. The Second Export-Import Bank of Washington, D.C., was established under Ex. Ord. No. 6638, Mar. 9, 1934. Its

commitments were transferred to the Export-Import Bank of Washington and it was abolished by Ex. Ord. No. 7365, May 7, 1936, 1 F.R. 372. The "Export-Import Bank of Washington" was renamed the "Export-Import Bank of the United States". See the 1968 Amendment note under this section.

WAIVER OF SANCTIONS

Sanctions contained in subsec. (b)(4) waived in certain regards with respect to India and Pakistan by the following Determinations of the President, set out as notes under section 2799aa-1 of Title 22, Foreign Relations and Intercourse:

Determination of President of the United States, No. 2000-4, Oct. 27, 1999, 64 F.R. 60649.

Determination of President of the United States, No. 2000-18, Mar. 16, 2000, 65 F.R. 16297.

REPORTING ON FINANCING RELATED TO CHINA

Pub. L. 116-94, div. I, title IV, §408, Dec. 20, 2019, 133 Stat. 3024, provided that:

"(a) NATIONAL INTEREST REPORT.—Before authorizing a loan or guarantee for a transaction in an amount greater than \$25,000,000 for which the end user, lender, or obligor is the government of China, the President of the Export-Import Bank of the United States (in this section referred to as the 'Bank') shall—

"(1) report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that the Bank has consulted with the Secretary of State and any other relevant department or agency, as deemed appropriate by the President of the United States, to assess any risks posed by the entity or the transaction to the national interest of the United States; and

"(2) include a summary of the transaction and the consultation.

"(b) FORM OF REPORT.—The report described in subsection (a) shall be submitted in unclassified form but may include a classified annex.

"(c) RELATED POLICIES.—

"(1) The Board of Directors of the Bank shall prescribe policies for the Bank with respect to—

"(A) procedures required by the consultation described in subsection (a)(1);

"(B) establishment of a period of not less than 25 days to complete the consultations described in subsection (a) during which time consulted parties may submit any appropriate information to the Bank; and

"(C) efforts by the Bank to assess and determine ownership or control by the government of China pursuant to the requirements of subsection (a).

"(2) In prescribing the policies described under paragraph (1) of this subsection, the Board of Directors of the Bank shall—

"(A) consult with the Secretary of State with respect to the procedures referred to in subparagraphs (A) and (B) of paragraph (1) of this subsection, and seek to ensure that the procedures—

"(i) are consistent, wherever appropriate, with national interest determinations made under section 2(b)(1)(B) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(b)(1)(B)]; and

"(ii) include coordination between the Secretary of State and the Director of National Intelligence, wherever appropriate; and

"(B) consult with the Secretary of the Treasury with respect to the efforts described in paragraph (1)(C) of this subsection.

"(d) DEFINITION.—For the purposes of this section, the term 'government of China' means any person that the Bank has reason to believe is—

"(1) the state and the government of China, as well as any political subdivision, agency, or instrumentality thereof;

"(2) any entity controlled, directly or indirectly, by any of the foregoing, including any partnership, association, or other entity in which any of the foregoing owns a 50 percent or greater interest or a controlling interest, and any entity which is otherwise controlled by any of the foregoing;

"(3) any person that is or has been acting or purporting to act, directly or indirectly, for or on behalf of any of the foregoing; and

"(4) any other person which the Secretary of the Treasury has notified the Bank is included in any of the foregoing.

"(e) SUNSET.—This section shall have no force or effect on the earlier of—

"(1) December 31, 2026; or

"(2) the date that is 30 days after the date that the President of the United States reports to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that China is in substantial compliance with—

"(A) the financial terms and conditions of the Arrangement on Officially Supported Export

Credits of the Organization for Economic Cooperation and Development; and
"(B) the rules and principles of the Paris Club."

PILOT PROGRAM FOR REINSURANCE

Pub. L. 114–94, div. E, title LI, §51008, Dec. 4, 2015, 129 Stat. 1766, provided that:

"(a) **IN GENERAL.**—Notwithstanding any provision of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.), the Export-Import Bank of the United States (in this section referred to as the 'Bank') may establish a pilot program under which the Bank may enter into contracts and other arrangements to share risks associated with the provision of guarantees, insurance, or credit, or the participation in the extension of credit, by the Bank under that Act.

"(b) **LIMITATIONS ON AMOUNT OF RISK-SHARING.**—

"(1) **PER CONTRACT OR OTHER ARRANGEMENT.**—The aggregate amount of liability the Bank may transfer through risk-sharing pursuant to a contract or other arrangement entered into under subsection (a) may not exceed \$1,000,000,000.

"(2) **PER YEAR.**—The aggregate amount of liability the Bank may transfer through risk-sharing during a fiscal year pursuant to contracts or other arrangements entered into under subsection (a) during that fiscal year may not exceed \$10,000,000,000.

"(c) **ANNUAL REPORTS.**—Not later than 1 year after the date of the enactment of this Act [Dec. 4, 2015], and annually thereafter through 2019, the Bank shall submit to Congress a written report that contains a detailed analysis of the use of the pilot program carried out under subsection (a) during the year preceding the submission of the report.

"(d) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to affect, impede, or revoke any authority of the Bank.

"(e) **TERMINATION.**—The pilot program carried out under subsection (a) shall terminate on September 30, 2019."

PUBLICATION OF GUIDELINES FOR ECONOMIC IMPACT ANALYSES

Pub. L. 112–122, §12(a), May 30, 2012, 126 Stat. 357, provided that: "Not later than 180 days after the date of the enactment of this Act [May 30, 2012], the Export-Import Bank of the United States shall develop and make publicly available methodological guidelines to be used by the Bank in conducting economic impact analyses or similar studies under section 2(e) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(e)]. In developing the guidelines, the Bank shall take into consideration any relevant guidance from the Office of Management and Budget."

PROHIBITIONS ON FINANCING FOR CERTAIN PERSONS INVOLVED IN SANCTIONABLE ACTIVITIES WITH RESPECT TO IRAN

Pub. L. 112–122, §18, May 30, 2012, 126 Stat. 360, provided that:

"(a) **PROHIBITION ON FINANCING FOR PERSONS THAT ENGAGE IN CERTAIN SANCTIONABLE ACTIVITIES.**—

"(1) **IN GENERAL.**—Beginning on the date that is 180 days after the date of the enactment of this Act [May 30, 2012], the Board of Directors of the Export-Import Bank of the United States may not approve any transaction that is subject to approval by the Board with respect to the provision by the Bank of any guarantee, insurance, or extension of credit, or the participation by the Bank in any extension of credit, to a person in connection with the exportation of any good or service unless the person makes the certification described in paragraph (2).

"(2) **CERTIFICATION DESCRIBED.**—The certification described in this paragraph is a certification by a person—

"(A) that neither the person nor any other person owned or controlled by the person—

"(i) engages in any activity described in section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) for which the person may be subject to sanctions under that Act;

"(ii) exports sensitive technology, as defined in section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8515), to Iran; or

"(iii) engages in any activity prohibited by part 560 of title 31, Code of Federal Regulations (commonly known as the 'Iranian Transactions Regulations'), unless the activity is disclosed to the Office of Foreign Assets Control of the Department of the Treasury when the activity is discovered; or

"(B) if the person or any other person owned or controlled by the person has engaged in an activity described in subparagraph (A), that—

"(i) in the case of an activity described in subparagraph (A)(i)—

"(I) the President has waived the imposition of sanctions with respect to the person that engaged in that activity pursuant to section 4(c), 6(b)(5), or 9(c) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note);

"(II)(aa) the President has invoked the special rule described in section 4(e)(3) of that Act with respect to the person that engaged in that activity; or

"(bb)(AA) the person that engaged in that activity determines, based on its best knowledge and belief, that the person meets the criteria described in subparagraph (A) of such section 4(e)(3) and has provided to the President the assurances described in subparagraph (B) of that section; and

"(BB) the Secretary of State has issued an advisory opinion to that person that the person meets such criteria and has provided to the President those assurances; or

"(III) the President has determined that the criteria have been met for the exception provided for under section 5(a)(3)(C) of the Iran Sanctions Act of 1996 [Pub. L. 104-172, 50 U.S.C. 1701 note] to apply with respect to the person that engaged in that activity; or

"(ii) in the case of an activity described in subparagraph (A)(ii), the President has waived, pursuant to section 401(b)(1) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(b)(1)), the application of the prohibition under section 106(a) of that Act (22 U.S.C. 8515(a)) with respect to that person.

"(b) PROHIBITION ON FINANCING.—Beginning on the date that is 180 days after the date of the enactment of this Act, the Board of Directors of the Export-Import Bank of the United States may not approve any transaction that is subject to approval by the Board with respect to the provision by the Bank of any guarantee, insurance, or extension of credit, or the participation by the Bank in any extension of credit, in connection with a financing in which a person that is a borrower or controlling sponsor, or a person that is owned or controlled by such borrower or controlling sponsor, is subject to sanctions under section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

"(c) ADVISORY OPINIONS.—

"(1) AUTHORITY.—The Secretary of State is authorized to issue advisory opinions described in subsection (a)(2)(B)(i)(II).

"(2) NOTICE TO CONGRESS.—If the Secretary issues an advisory opinion pursuant to paragraph (1), the Secretary shall notify the appropriate congressional committees of the opinion not later than 30 days after issuing the opinion.

"(d) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES; PERSON.—The terms 'appropriate congressional committees' and 'person' have the meanings given those terms in section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

"(2) CONTROLLING SPONSOR.—The term 'controlling sponsor' means a person providing controlling direct private equity investment (excluding investments made through publicly held investment funds, publicly held securities, public offerings, or similar public market vehicles) in connection with a financing."

MASTER GUARANTEE AGREEMENTS WITH AFRICAN REGIONAL FINANCIAL INSTITUTIONS

Pub. L. 109-438, §3(b)(1), Dec. 20, 2006, 120 Stat. 3268, provided that: "Within 1 year after the date of the enactment of this Act [Dec. 20, 2006], the Export-Import Bank of the United States shall seek to ensure that there is in effect a contract between each approved lender in Africa and the Bank, which sets forth the Bank's guarantee undertakings and related obligations between the Bank and each lender."

ENHANCE DELEGATED LOAN AUTHORITY FOR MEDIUM TERM TRANSACTIONS

Pub. L. 109-438, §6(b)(1), Dec. 20, 2006, 120 Stat. 3272, provided that: "The Export-Import Bank of the United States shall seek to expand the exercise of authority under section 2(b)(1)(E)(vii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(vii)) with respect to medium term transactions for small business concerns."

DEADLINE FOR ENHANCING DELEGATED LOAN AUTHORITY FOR MEDIUM TERM TRANSACTIONS

Pub. L. 109-438, §6(b)(3), Dec. 20, 2006, 120 Stat. 3272, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2006], the Export-Import Bank of the United States shall make available lines of credit and guarantees to carry out section 2(b)(1)(E)(vii) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(b)(1)(E)(vii)] pursuant to policies and procedures established by the Board of Directors of the Export-Import Bank of the United States."

GAO STUDY OF BANK PERFORMANCE STANDARDS FOR ASSISTANCE TO SMALL BUSINESSES, ESPECIALLY THOSE OWNED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS AND THOSE OWNED BY WOMEN

Pub. L. 109–438, §19, Dec. 20, 2006, 120 Stat. 3282, provided that:

"(a) PERFORMANCE STANDARDS.—The Bank shall develop a set of performance standards for determining the extent to which the Bank has carried out successfully subparagraphs (E) and (I) of section 2(b)(1) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(b)(1)(E), (I)], and the functions described in subsections (f)(1), (g)(1), (h)(1), and (i)(1) of section 3 of such Act [12 U.S.C. 635a(f)(1), (g)(1), (h)(1), (i)(1)].

"(b) ASSESSMENT OF STANDARDS.—Within 18 months after the date of the enactment of this Act [Dec. 20, 2006], the Comptroller General of the United States shall transmit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

"(1) an assessment of the performance standards developed by the Bank pursuant to subsection (a); and

"(2) using the performance standards developed pursuant to subsection (a), an assessment of the Bank's efforts to carry out subparagraphs (E) and (I) of section 2(b)(1) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(b)(1)(E), (I)], and the functions described in subsections (f)(1), (g)(1), (h)(1), and (i)(1) of section 3 of such Act [12 U.S.C. 635a(f)(1), (g)(1), (h)(1), (i)(1)]."

GAO REPORT ON COMPARATIVE RESERVE PRACTICES OF EXPORT CREDIT AGENCIES AND PRIVATE BANKS

Pub. L. 107–189, §14, June 14, 2002, 116 Stat. 705, provided that: "Within 1 year after the date of the enactment of this Act [June 14, 2002], the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that examines the reserve ratios of the Export-Import Bank of the United States as compared with the reserve practices of private banks and foreign export credit agencies."

REPORTS TO CONGRESS

Pub. L. 105–121, §7(b), Nov. 26, 1997, 111 Stat. 2529, as amended by Pub. L. 107–189, §6(c), June 14, 2002, 116 Stat. 700, provided that: "Within 6 months after the date of enactment of this Act [Nov. 26, 1997], and annually for each of the 8 years thereafter, the Board of Directors of the Export-Import Bank of the United States shall submit to Congress a report on the steps that the Board has taken to implement section 2(b)(9)(B) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(b)(9)(B)] and any recommendations of the advisory committee established pursuant to such section."

DECLARATION OF POLICY

Pub. L. 102–429, title I, §101, Oct. 21, 1992, 106 Stat. 2186, provided that: "The Congress finds that—

"(1) as the world's largest economy, the United States has an enormous stake in the future of the global trading system;

"(2) exports are a crucial force driving the United States economy;

"(3) during 1991, the value of United States exports increased by 7.1 percent from the 1990 level to \$421,600,000,000, supporting more than 7,000,000 full-time United States jobs, and affecting the lives of all of the people of the United States;

"(4) exports also support the global strategic position of the United States;

"(5) a significant part of a country's influence is drawn from the reputation of its goods, its industrial connections with other countries, and the capital it has available for investment, and trade finance is a critical component of this equation;

"(6) the growth in United States exports has increased the demand for financing from the Export-Import Bank of the United States;

"(7) during 1991, the value of exports assisted by the Export-Import Bank rose 28.7 percent, from \$9,700,000,000 to \$12,100,000,000, the highest level since 1981;

"(8) the Export-Import Bank used its entire budget authority provided for 1991, and still could not meet all of the demand for its financing assistance; and

"(9) accordingly, the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992, must be renewed in order that the Bank continue to arrange competitive and innovative financing for the foreign sales of United States exporters."

REPORT ON FINANCING OF SERVICES

Pub. L. 102-429, title I, §119, Oct. 21, 1992, 106 Stat. 2197, directed Export-Import Bank of the United States, not later than 1 year after Oct. 21, 1992, to submit a report to Congress on ways of facilitating the export financing of high technology services.

**REPORT ON DEMAND FOR TRADE FINANCE FOR THE BALTIC STATES, THE
INDEPENDENT STATES OF THE FORMER SOVIET UNION, AND CENTRAL AND
EASTERN EUROPE**

Pub. L. 102-429, title I, §120, Oct. 21, 1992, 106 Stat. 2197, directed Export-Import Bank, not later than 1 year after Oct. 21, 1992, to transmit to Congress a report analyzing present and future demand for loans, guarantees, and insurance for trade between the United States and the Baltic States, between the United States and the independent States of the former Soviet Union, and between the United States and Central and Eastern Europe, and to make recommendations regarding the adequacy of financing for trade between the United States and such countries.

**EXPORT-IMPORT PROGRAMS TO PEOPLE'S REPUBLIC OF CHINA PROHIBITED UNLESS
CERTAIN CONDITIONS MET**

Pub. L. 101-240, title I, §103, Dec. 19, 1989, 103 Stat. 2496, provided that:

"(a) Notwithstanding any other provision of law and subject to the provisions of subsections (b) and (c), the Export-Import Bank of the United States shall not finance any trade with, nor extend any loan, credit, credit guarantee, insurance or reinsurance to the People's Republic of China.

"(b) The prohibitions described in subsection (a) of this section shall not apply to food or agricultural commodities.

"(c) The President may waive the prohibitions in subsection (a) if he makes a report to Congress either—

"(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the country, as well as in Tibet, which includes—

"(A) lifting of martial law;

"(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

"(C) release of political prisoners;

"(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

"(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

"(2) it is in the national interest of the United States to terminate a suspension under subsection (a)."

EXPORT-IMPORT BANK PROGRAMS FOR POLAND AND HUNGARY

Pub. L. 101-179, title III, §303, Nov. 28, 1989, 103 Stat. 1312, provided that:

"(a) **AUTHORITY TO EXTEND CREDIT TO POLAND AND HUNGARY.**—Notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)), the Export-Import Bank of the United States may guarantee, insure, finance, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by the Republic of Hungary or any agency or national thereof or by the Polish People's Republic or any agency or national thereof.

"(b) **PRIVATE FINANCIAL INTERMEDIARIES TO FACILITATE EXPORTS TO POLAND** .—Consistent with the provisions of the Export-Import Bank Act of 1945 (12 U.S.C. 635 and following), the Export-Import Bank of the United States shall work with private financial intermediaries in Poland to facilitate the export of goods and services to Poland."

RESTRICTIONS ON LOANS

Pub. L. 93-646, §12, Jan. 4, 1975, 88 Stat. 2337, provided that, until Jan. 3, 1975, no loan, guarantee, insurance, or credit could be extended by the Export-Import Bank of the United States to the Union of Soviet Socialist Republics.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

For delegation of functions of the President under subsec. (b)(6) of this section, see section 1(u) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16131, set out as a note under section 2751 of Title 22, Foreign Relations and Intercourse. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a

note under section 2751 of Title 22 and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

EX. ORD. NO. 12166. DELEGATION OF FUNCTION OF PRESIDENT RELATING TO APPLICATION FOR CREDIT TO SECRETARY OF STATE

Ex. Ord. No. 12166, Oct. 19, 1979, 44 F.R. 60971, provided:

By the authority vested in me as President of the United States of America by Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(1)(B)), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1-101. The function vested in the President by Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(1)(B)), is delegated to the Secretary of State. That function is the authority to determine that a denial by the Export-Import Bank of an application for credit would be in the national interest, where such action could clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights.

1-102. Before making such a determination, the Secretary of State shall consult with the Secretary of Commerce and the heads of other interested Executive agencies.

1-103. In accord with Section 2(b)(1)(B) of that Act, only in those cases where the Secretary of State has made such a determination should the Export-Import Bank deny an application for credit for nonfinancial or noncommercial considerations.

JIMMY CARTER.

ASSIGNMENT OF FUNCTIONS UNDER SECTION 530 OF THE FOREIGN RELATIONS AUTHORIZATION ACT FOR FISCAL YEARS 1994 AND 1995, AND SECTION 2(B)(4) OF THE EXPORT-IMPORT BANK ACT OF 1945, AS AMENDED

Memorandum of President of the United States, Mar. 23, 2007, 72 F.R. 18103, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby assign to you:

(1) the functions of the President under section 530 of the Foreign Relations Authorization Act for Fiscal Years 1994 and 1995 (Public Law 103-236) (22 U.S.C. 2429a-2); and

(2) the functions of the President under section 2(b)(4) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

PRESIDENTIAL DETERMINATIONS RELATING TO COUNTRIES DEEMED TO BE MARXIST-LENINIST COUNTRIES

The following Presidential Determinations determined that the listed countries had ceased to be Marxist-Leninist countries within the definition of such term in subsection (b)(2)(B)(i) of this section:

Determination No. 2009-20, June 12, 2009, 74 F.R. 28865.—Kingdom of Cambodia.

Determination No. 2009-21, June 12, 2009, 74 F.R. 28867.—Lao People's Democratic Republic.

¹ [*See References in Text note below.*](#)

§635a. Management of Bank

(a) Establishment as independent agency

The Export-Import Bank of the United States shall constitute an independent agency of the United States and neither the Bank nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress shall otherwise by law provide.

(b) President and First Vice President of the Bank; appointment; duties

There shall be a President of the Export-Import Bank of the United States, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, and who shall

serve as chief executive officer of the Bank. There shall be a First Vice President of the Bank, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, who shall serve as President of the Bank during the absence or disability of or in the event of a vacancy in the office of President of the Bank, and who shall at other times perform such functions as the President of the Bank may from time to time prescribe.

(c) Board of Directors; composition; oath; terms; duties; quorum; bylaws

(1) There shall be a Board of Directors of the Bank consisting of the President of the Export-Import Bank of the United States, who shall serve as Chairman, the First Vice President who shall serve as Vice Chairman, and three additional persons appointed by the President of the United States by and with the advice and consent of the Senate.

(2) Of the five members of the Board, not more than three shall be members of any one political party.

(3) Omitted

(4) Before entering upon his duties, each of the directors shall take an oath faithfully to discharge the duties of his office.

(5) The directors, in addition to their duties as members of the Board, shall perform such additional duties and may hold such other offices in the administration of the Bank as the President of the Bank may from time to time prescribe.

(6)(A) A quorum of the Board of Directors shall consist of at least three members.

(B)(i) If there is an insufficient number of directors to constitute a quorum under subparagraph (A) for 120 consecutive days during the term of a President of the United States, a temporary Board, consisting of the following members, shall act in the stead of the Board of Directors:

(I) The United States Trade Representative.

(II) The Secretary of the Treasury.

(III) The Secretary of Commerce.

(IV) The members of the Board of Directors.

(ii) If, at a meeting of the temporary Board—

(I) a member referred to in clause (i)(IV) is present, the meeting shall be chaired by such a member, consistent with Bank bylaws; or

(II) no such member is present, the meeting shall be chaired by the United States Trade Representative.

(iii) A member described in subclause (I), (II), or (III) of clause (i) may delegate the authority of the member to vote on whether to authorize a transaction, whose value does not exceed \$100,000,000, to—

(I) if the member is the United States Trade Representative, the Deputy United States Trade Representative; or

(II) if the member is referred to in such subclause (II) or (III), the Deputy Secretary of the department referred to in the subclause.

(iv) If the temporary Board consists of members of only one political party, the President of the United States shall, to the extent practicable, appoint to the temporary Board a qualified member of a different political party who occupies a position requiring nomination by the President, by and with the consent of the Senate.

(v) The temporary board may not change or amend Bank policies, procedures, bylaws, or guidelines.

(vi) The temporary Board shall expire at the end of the term of the President of the United States in office at the time the temporary Board was constituted or upon restoration of a quorum of the Board of Directors as defined in subparagraph (A).

(vii) With respect to a transaction that equals or exceeds \$100,000,000, the Chairperson of the temporary Board shall ensure that the Bank complies with section 635(b)(3) of this title.

(7) The Board of Directors shall adopt, and may from time to time amend, such bylaws as are

necessary for the proper management and functioning of the Bank, and shall, in such bylaws, designate the vice presidents and other officers of the Bank and prescribe their duties.

(8)(A) The terms of the directors, including the President and the First Vice President of the Bank, appointed under this section shall be four years, except that—

(i) during their terms of office, the directors shall serve at the pleasure of the President of the United States;

(ii) the term of any director appointed after November 30, 1983, to serve before January 20, 1985, shall expire on January 20, 1985;

(iii) of the directors first appointed to serve beginning on or after January 21, 1985, two directors (other than the President and First Vice President of the Bank) shall be appointed for terms of two years, as designated by the President of the United States at the time of their appointment; and

(iv) any director first appointed to serve for a term beginning on any date after January 21, 1985, shall serve only for the remainder of the period for which such director would have been appointed if such director's term had begun on January 21, 1985. If such term would have expired before the date on which such director's term actually begins, the term of such director shall be the four-year period, or remainder thereof, as if such director had been preceded by a director whose term had begun on January 21, 1985.

(B) Of the five members of the Board appointed by the President, not less than one such member shall be selected from among the small business community and shall represent the interests of small business.

(C) Any person chosen to fill a vacancy shall be appointed only for the unexpired term of the director whom such person succeeds.

(D) Any director whose term has expired may be reappointed.

(E) Any director whose term has expired may continue to serve on the Board of Directors until the earlier of—

(i) the date on which such director's successor is qualified; or

(ii) the end of the 6-month period beginning on the date such director's term expires.

(9) At the request of any 2 members of the Board of Directors, the Chairman of the Board shall place an item pertaining to the policies or procedures of the Bank on the agenda for discussion by the Board. Within 30 days after the date such a request is made, the Chairman shall hold a meeting of the Board at which the item shall be discussed.

(10) NOTICE AND COMMENT REQUIREMENTS.—

(A) IN GENERAL.—Before any meeting of the Board for final consideration of a long-term transaction the value of which exceeds \$100,000,000, and concurrent with any statement required to be submitted under section 635(b)(3) of this title with respect to the transaction, the Bank shall provide a notice and comment period.

(B) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether the value of a proposed transaction exceeds the financial threshold set forth in subparagraph (A), the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all long-term loans and guarantees, approved by the Bank in the preceding 12-month period, that involved the same foreign entity and substantially the same product to be produced.

(C) SPECIFIC REQUIREMENTS.—

(i) IN GENERAL.—The Bank shall—

(I) publish in the Federal Register a notice of the application proposing the transaction;

(II) provide a period of not less than 25 days for the submission to the Bank of comments on the application; and

(III) notify the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives of the application, and seek comments on the application from the Department of Commerce and the Office of Management and Budget.

(ii) CONTENT OF NOTICE.—The notice published under clause (i)(I) with respect to an application for a loan or financial guarantee shall include appropriate information about—

(I) a brief non-proprietary description of the purposes of the transaction and the anticipated use of any item being exported, including, to the extent the Bank is reasonably aware, whether the item may be used to produce exports or provide services in competition with the exportation of goods or the provision of services by a United States industry;

(II) the identities of the obligor, principal supplier, and guarantor; and

(III) a description, such as type or model number, of any item with respect to which Bank financing is being sought, but only to the extent the description does not disclose any information that is confidential or proprietary business information, that would violate the Trade Secrets Act, or that would jeopardize jobs in the United States by supplying information which competitors could use to compete with companies in the United States.

(D) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

(i) IN GENERAL.—If a material change is made to an application to which this paragraph applies, after a notice with respect to the application is published under subparagraph (C)(i)(I), the Bank shall publish in the Federal Register a revised notice of the application and provide for an additional comment period as provided in subparagraph (C)(i)(II).

(ii) MATERIAL CHANGE DEFINED.—In clause (i), the term "material change", with respect to an application for a loan or guarantee, includes an increase of at least 25 percent in the amount of a loan or guarantee requested in the application.

(E) REQUIREMENT TO ADDRESS VIEWS OF COMMENTERS.—Before taking final action on an application to which this paragraph applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments on the application pursuant to this paragraph.

(F) PUBLICATION OF CONCLUSIONS.—Within 30 days after a final decision of the Board of Directors with respect to an application to which this paragraph applies, the Bank shall provide to a commenter on the application or the decision who makes a request therefor, a non-confidential summary of the facts found and conclusions reached in any detailed analysis or similar study with respect to the loan or guarantee that is the subject of the application, that was submitted to the Board of Directors. Such summary should be sent within 30 days of the receipt of the written request or date of the final decision of the Board of Directors, whichever is later.

(G) RULE OF INTERPRETATION.—The obligations imposed by this paragraph shall not be interpreted to create, modify, or preclude any legal right of action.

(d) Advisory Committee; appointment; composition; meetings; advice to Bank; report to Congress

(1)(A) There is established an Advisory Committee to consist of 17 members who shall be appointed by the Board of Directors on the recommendation of the President of the Bank.

(B) Such members shall be broadly representative of environment, production, commerce, finance, agriculture, labor, services, State government, and the textile industry.

(2)(A) Not less than three members appointed to the Advisory Committee shall be representative of the small business community.

(B) Not less than 2 members appointed to the Advisory Committee shall be representative of the labor community, except that no 2 representatives of the labor community shall be selected from the same labor union.

(C) Not less than 2 members appointed to the Advisory Committee shall be representative of the environmental nongovernmental organization community, except that no 2 of the members shall be from the same environmental organization.

(3) The Advisory Committee shall meet at least once each quarter.

(4) The Advisory Committee shall advise the Bank on its programs, and shall submit, with the report specified in section 635(b)(1)(A) of this title, its own comments to the Congress on the extent

to which the Bank is meeting its mandate to provide competitive financing to expand United States exports, and any suggestions for improvements in this regard.

(5) In carrying out paragraph (4), the Advisory Committee shall consider ways to promote the financing of Bank transactions for the textile industry, consistent with the requirement that the Bank obtain a reasonable assurance of repayment, and determine ways to—

(A) increase Bank support for the exports of textile components or inputs made in the United States; and

(B) support the maintenance, promotion and expansion of jobs in the United States that are critical to the manufacture of textile components and inputs.

(e) Conflicting personal interests

(1) No director, officer, attorney, agent, or employee of the Bank shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting such individual's personal interests, or the interests of any corporation, partnership or association in which such individual is directly or indirectly personally interested.

(2) The General Counsel of the Bank shall ensure that the directors, officers, and employees of the Bank have available appropriate legal counsel for advice on, and oversight of, issues relating to personnel matters and other administrative law matters by designating an attorney to serve as Assistant General Counsel for Administration, whose duties, under the supervision of the General Counsel, shall be concerned solely or primarily with such issues.

(f) Small Business Division

(1) Establishment

There is established a Small Business Division (in this subsection referred to as the "Division") within the Bank in order to—

(A) carry out the provisions of subparagraphs (E) and (I) of section 635(b)(1) of this title relating to outreach, feedback, product improvement, and transaction advocacy for small business concerns (as defined in section 632(a) of title 15);

(B) advise and seek feedback from small business concerns on the opportunities and benefits for small business concerns in the financing products offered by the Bank, with particular emphasis on conducting outreach, enhancing the tailoring of products to small business needs and increasing loans to small business concerns;

(C) maintain liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns; and

(D) provide oversight of the development, implementation, and operation of technology improvements to strengthen small business outreach, including the technology improvement required by section 635(b)(1)(E)(x) of this title.

(2) Management

The President of the Bank shall appoint an officer, who shall rank not lower than senior vice president and whose sole executive function shall be to manage the Division. The officer shall—

(A) have substantial recent experience in financing exports by small business concerns; and

(B) advise the Board, particularly the director appointed under subsection (c)(8)(B) to represent the interests of small business, on matters of interest to, and concern for, small business.

(g) Small business specialists

(1) Dedicated personnel

The President of the Bank shall ensure that each operating division within the Bank has staff that specializes in processing transactions that primarily benefit small business concerns (as defined in section 632(a) of title 15).

(2) Responsibilities

The small business specialists shall be involved in all aspects of processing applications for

loans, guarantees, and insurance to support exports by small business concerns, including the approval or disapproval, or staff recommendations of approval or disapproval, as applicable, of such applications. In carrying out these responsibilities, the small business specialists shall consider the unique business requirements of small businesses and shall develop exporter performance criteria tailored to small business exporters.

(3) Approval authority

In an effort to maximize the speed and efficiency with which the Bank processes transactions primarily benefitting small business concerns, the small business specialists shall be authorized to approve applications for working capital loans and guarantees, and insurance in accordance with policies and procedures established by the Board. It is the sense of Congress that the policies and procedures should not prohibit, where appropriate, small business specialists from approving applications for working capital loans and guarantees, and for insurance, in support of exports which have a value of less than \$25,000,000.

(4) Identification

The Bank shall prominently identify the small business specialists on its website and in promotional material.

(5) Employee evaluations

The evaluation of staff designated by the President of the Bank under paragraph (1), including annual reviews of performance of duties related to transactions in support of exports by small business concerns, and any resulting recommendations for salary adjustments, promotions, and other personnel actions, shall address the criteria established pursuant to subsection (h)(2)(B)(iii) and shall be conducted by the manager of the relevant operating division following consultation with the officer appointed to manage the Small Business Division pursuant to subsection (f)(2).

(6) Staff recommendations

Staff recommendations of denial or withdrawal for medium-term applications, exporter held multi-buyer policies, single buyer policies, and working capital applications processed by the Bank shall be transmitted to the officer appointed to manage the Small Business Division pursuant to subsection (f)(2) not later than 2 business days before a final decision.

(7) Rule of interpretation

Nothing in this subchapter shall be construed to prevent the delegation to the Division of any authority necessary to carry out subparagraphs (E) and (I) of section 635(b)(1) of this title.

(h) Small Business Committee

(1) Establishment

There is established a management committee to be known as the "Small Business Committee".

(2) Purpose and duties

(A) Purpose

The purpose of the Small Business Committee shall be to coordinate the Bank's initiatives and policies with respect to small business concerns (as defined in section 632(a) of title 15), including the timely processing and underwriting of transactions involving direct exports by small business concerns, and the development and coordination of efforts to implement new or enhanced Bank products and services pertaining to small business concerns.

(B) Duties

The duties of the Small Business Committee shall be determined by the President of the Bank and shall include the following:

- (i) Assisting in the development of the Bank's small business strategic plans, including the Bank's plans for carrying out section 635(b)(1)(E) (v) and (x) of this title, and measuring and reporting in writing to the President of the Bank, at least once a year, on the Bank's progress in achieving the goals set forth in the plans.

(ii) Evaluating and reporting in writing to the President of the Bank, at least once a year, with respect to—

(I) the performance of each operating division of the Bank in serving small business concerns;

(II) the impact of processing and underwriting standards on transactions involving direct exports by small business concerns; and

(III) the adequacy of the staffing and resources of the Small Business Division.

(iii) Establishing criteria for evaluating the performance of staff designated by the President of the Bank under subsection (g)(1).

(iv) Coordinating the provision of services with other United States Government departments and agencies to small business concerns.

(3) Composition

(A) Chairperson

The Chairperson of the Small Business Committee shall be the officer appointed to manage the Small Business Division pursuant to subsection (f)(2). The Chairperson shall have the authority to call meetings of the Small Business Committee, set the agenda for Committee meetings, and request policy recommendations from the Committee's members.

(B) Other members

Except as otherwise provided in this subsection, the President of the Bank shall determine the composition of the Small Business Committee, and shall appoint or remove the members of the Small Business Committee. In making such appointments, the President of the Bank shall ensure that the Small Business Committee is comprised of—

(i) the senior managing officers responsible for underwriting and processing transactions; and

(ii) other officers and employees of the Bank with responsibility for outreach to small business concerns and underwriting and processing transactions that involve small business concerns.

(4) Reporting

The Chairperson shall provide to the President of the Bank minutes of each meeting of the Small Business Committee, including any recommendations by the Committee or its individual members.

(i) Office of financing for socially and economically disadvantaged small business concerns and small business concerns owned by women

(1) Establishment

The President of the Bank shall establish in the Small Business Division an office whose sole functions shall be to continue and enhance the outreach activities of the Bank with respect to, and increase the total amount of loans, guarantees, and insurance provided by the Bank to support exports by, socially and economically disadvantaged small business concerns (as defined in section 637(a)(4) of title 15) and small business concerns owned by women.

(2) Management

The office shall be managed by a Bank officer of appropriate rank who shall report to the Bank officer designated under subsection (f)(2).

(3) Staffing

To the maximum extent practicable, the President of the Bank shall ensure that qualified minority and women applicants are considered when filling any position in the office.

(j) Authority to use portion of bank surplus to update information technology systems

(1) In general

Subject to paragraphs (3) and (4), the Bank may use an amount equal to 1.25 percent of the surplus of the Bank during fiscal years 2015 through 2019 to—

- (A) seek to remedy any of the operational weakness and risk management vulnerabilities of the Bank which are the result of the information technology system of the Bank;
- (B) remedy data fragmentation, enhance information flow throughout the Bank, and manage data across the Bank; and
- (C) enhance the operational capacity and risk management capabilities of the Bank to better enable the Bank to increase exports and grow jobs while protecting the taxpayer.

(2) Surplus

In paragraph (1), the term "surplus" means the amount (if any) by which—

- (A) the sum of the interest and fees collected by the Bank; exceeds
- (B) the sum of—
 - (i) the funds set aside to cover expected losses on transactions financed by the Bank; and
 - (ii) the costs incurred to cover the administrative expenses of the Bank.

(3) Limitation

The aggregate of the amounts used in accordance with paragraph (1) for fiscal years 2015 through 2019 shall not exceed \$20,000,000.

(4) Subject to appropriations

The authority provided by paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriations Acts.

(k) Office of Ethics

(1) Establishment

There is established an Office of Ethics within the Bank, which shall oversee all ethics issues within the Bank.

(2) Head of office

(A) In general

The head of the Office of Ethics shall be the Chief Ethics Officer, who shall report to the Board of Directors.

(B) Appointment

Not later than 180 days after December 4, 2015, the Chief Ethics Officer shall be—

- (i) appointed by the President of the Bank from among persons—
 - (I) with a background in law who have experience in the fields of law and ethics; and
 - (II) who are not serving in a position requiring appointment by the President of the United States before being appointed to be Chief Ethics Officer; and
- (ii) approved by the Board.

(C) Designated agency ethics official

The Chief Ethics Officer shall serve as the designated agency ethics official for the Bank pursuant to chapter 131 of title 5.

(3) Duties

The Office of Ethics has jurisdiction over all employees of, and ethics matters relating to, the Bank. With respect to employees of the Bank, the Office of Ethics shall—

- (A) recommend administrative actions to establish or enforce standards of official conduct;
- (B) refer to the Office of the Inspector General of the Bank alleged violations of—
 - (i) the standards of ethical conduct applicable to employees of the Bank under parts 2635 and 6201 of title 5, Code of Federal Regulations;
 - (ii) the standards of ethical conduct established by the Chief Ethics Officer; and
 - (iii) any other laws, rules, or regulations governing the performance of official duties or the

discharge of official responsibilities that are applicable to employees of the Bank;

(C) report to appropriate Federal or State authorities substantial evidence of a violation of any law applicable to the performance of official duties that may have been disclosed to the Office of Ethics; and

(D) render advisory opinions regarding the propriety of any current or proposed conduct of an employee or contractor of the Bank, and issue general guidance on such matters as necessary.

(l) Chief Risk Officer

(1) In general

There shall be a Chief Risk Officer of the Bank, who shall—

(A) oversee all issues relating to risk within the Bank; and

(B) report to the President of the Bank.

(2) Appointment

Not later than 180 days after December 4, 2015, the Chief Risk Officer shall be—

(A) appointed by the President of the Bank from among persons—

(i) with a demonstrated ability in the general management of, and knowledge of and extensive practical experience in, financial risk evaluation practices in large governmental or business entities; and

(ii) who are not serving in a position requiring appointment by the President of the United States before being appointed to be Chief Risk Officer; and

(B) approved by the Board.

(3) Duties

The duties of the Chief Risk Officer are—

(A) to be responsible for all matters related to managing and mitigating all risk to which the Bank is exposed, including the programs and operations of the Bank;

(B) to establish policies and processes for risk oversight, the monitoring of management compliance with risk limits, and the management of risk exposures and risk controls across the Bank;

(C) to be responsible for the planning and execution of all Bank risk management activities, including policies, reporting, and systems to achieve strategic risk objectives;

(D) to develop an integrated risk management program that includes identifying, prioritizing, measuring, monitoring, and managing internal control and operating risks and other identified risks;

(E) to ensure that the process for risk assessment and underwriting for individual transactions considers how each such transaction considers the effect of the transaction on the concentration of exposure in the overall portfolio of the Bank, taking into account fees, collateralization, and historic default rates; and

(F) to review the adequacy of the use by the Bank of qualitative metrics to assess the risk of default under various scenarios.

(m) Risk Management Committee

(1) Establishment

There is established a management committee to be known as the "Risk Management Committee".

(2) Membership

The membership of the Risk Management Committee shall be the members of the Board of Directors, with the President and First Vice President of the Bank serving as ex officio members.

(3) Duties

The duties of the Risk Management Committee shall be—

(A) to oversee, in conjunction with the Office of the Chief Financial Officer of the Bank—

(i) periodic stress testing on the entire Bank portfolio, reflecting different market, industry, and macroeconomic scenarios, and consistent with common practices of commercial and multilateral development banks; and

(ii) the monitoring of industry, geographic, and obligor exposure levels; and

(B) to review all required reports on the default rate of the Bank before submission to Congress under section 635g(g) of this title.

(July 31, 1945, ch. 341, §3, 59 Stat. 527; Aug. 9, 1954, ch. 660, §1, 68 Stat. 677; Pub. L. 90–267, §1(a), (d), Mar. 13, 1968, 82 Stat. 47, 49; Pub. L. 98–181, title I [title VI, §§613, 614(a), 620(b)], Nov. 30, 1983, 97 Stat. 1255, 1261; Pub. L. 99–472, §18, Oct. 15, 1986, 100 Stat. 1205; Pub. L. 102–429, title I, §113, Oct. 21, 1992, 106 Stat. 2195; Pub. L. 105–121, §§6, 8, Nov. 26, 1997, 111 Stat. 2529, 2530; Pub. L. 106–46, §1(a), Aug. 11, 1999, 113 Stat. 227; Pub. L. 107–189, §24(b)(4), June 14, 2002, 116 Stat. 709; Pub. L. 109–438, §§6(a), 14(a), 15, 18(a), Dec. 20, 2006, 120 Stat. 3270, 3280, 3281; Pub. L. 112–122, §§9(a), 19–20(b)(1), May 30, 2012, 126 Stat. 354, 361, 362; Pub. L. 114–94, div. E, title LI, §§51004–51006(a), title LIII, §53002, title LIV, §54002(c), Dec. 4, 2015, 129 Stat. 1764–1766, 1768, 1769; Pub. L. 116–94, div. I, title IV, §409(a), Dec. 20, 2019, 133 Stat. 3025; Pub. L. 117–286, §4(c)(22), Dec. 27, 2022, 136 Stat. 4357.)

TERMINATION OF AMENDMENT

For termination of amendment by Pub. L. 116–94, see Termination Date of 2019 Amendment note below.

EDITORIAL NOTES

REFERENCES IN TEXT

The Trade Secrets Act, referred to in subsec. (c)(10)(C)(ii)(III), is probably a reference to section 1905 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Provisions of subsecs. (b) and (c)(3) of this section, which prescribed the annual compensation of the President, the First Vice President, and other members of the Board of Directors, were omitted to conform to the provisions of the Executive Schedule. See sections 5314 and 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

2022—Subsec. (k)(2)(C). Pub. L. 117–286 substituted "chapter 131 of title 5." for "the Ethics in Government Act of 1978 (5 U.S.C. App. 101 et seq.)."

2019—Subsec. (c)(6). Pub. L. 116–94 designated existing provisions as subpar. (A) and added subpar. (B).

2015—Subsec. (g)(3). Pub. L. 114–94, §54002(c), substituted "\$25,000,000" for "\$10,000,000".

Subsec. (j)(1). Pub. L. 114–94, §53002(1), substituted "2015 through 2019" for "2012, 2013, and 2014" in introductory provisions.

Subsec. (j)(2)(B). Pub. L. 114–94, §53002(2), substituted "(i) the funds" for "(I) the funds".

Subsec. (j)(3). Pub. L. 114–94, §53002(3), substituted "2015 through 2019" for "2012, 2013, and 2014".

Subsec. (k). Pub. L. 114–94, §51004, added subsec. (k).

Subsec. (l). Pub. L. 114–94, §51005, added subsec. (l).

Subsec. (m). Pub. L. 114–94, §51006(a), added subsec. (m).

2012—Subsec. (c)(10). Pub. L. 112–122, §9(a), added par. (10).

Subsec. (d)(1)(B). Pub. L. 112–122, §20(a), substituted "State government, and the textile industry" for "and State government".

Subsec. (d)(5). Pub. L. 112–122, §20(b)(1), added par. (5).

Subsec. (j). Pub. L. 112–122, §19, added subsec. (j).

2006—Subsec. (c)(9). Pub. L. 109–438, §15, added par. (9).

Subsec. (d)(1)(A). Pub. L. 109–438, §18(a)(1)(A), substituted "17" for "15".

Subsec. (d)(1)(B). Pub. L. 109–438, §18(a)(1)(B), inserted "environment," before "production,".

Subsec. (d)(2)(C). Pub. L. 109-438, §18(a)(2), added subpar. (C).

Subsecs. (f) to (h). Pub. L. 109-438, §6(a), added subsecs. (f) to (h).

Subsec. (i). Pub. L. 109-438, §14(a), added subsec. (i).

2002—Subsec. (d)(2)(B). Pub. L. 107-189 realigned margins.

1999—Subsec. (c)(6). Pub. L. 106-46 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "A majority of the Board of Directors shall constitute a quorum."

1997—Subsec. (d)(2). Pub. L. 105-121, §8, designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (e). Pub. L. 105-121, §6, designated existing provisions as par. (1) and added par. (2).

1992—Subsec. (d)(1)(A). Pub. L. 102-429 substituted "15 members" for "twelve members".

1986—Subsec. (c)(8)(E). Pub. L. 99-472 added subpar. (E).

1983—Subsec. (c). Pub. L. 98-81, §614(a), designated first through seventh sentences as pars. (1) through (7), respectively, substituted "The" for "Terms of the directors shall be at the pleasure of the President of the United States, and the" at beginning of par. (5) as so designated, and added par. (8).

Subsec. (d). Pub. L. 98-181, §613, amended subsec. (d) generally. Prior to amendment subsec. (d) read as follows: "There shall be an Advisory Committee of nine members, appointed by the Board of Directors on the recommendation of the President of the Bank, who shall be broadly representative of production, commerce, finance, agriculture and labor. The Advisory Committee shall meet one or more times per year, on the call of the President of the Bank, to advise with the Bank on its program. Members, not otherwise in the regular full-time employ of the United States, may be compensated at rates not exceeding the per diem equivalent of the rate for grade 18 of the General Schedule (5 U.S.C. 5332) for each day spent in travel or attendance at meetings of the Committee, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for individuals in the Government service employed intermittently."

Subsec. (e). Pub. L. 98-181, §620(b), substituted "such individual's" for "his" and "such individual" for "he".

1968—Subsecs. (a) to (c). Pub. L. 90-267, §1(a), changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

Subsec. (d). Pub. L. 90-267, §1(d), substituted provisions for compensation of members, not otherwise in the regular full-time employ of the United States, at rates not exceeding the per diem equivalent of the rate for grade 18 of the General Schedule for each day spent in travel or attendance at meetings of the Committee, and for allowance of travel expenses, when serving away from home or regular place of business, as authorized by section 5703 of title 5 for individuals in the Government service employed intermittently for former provisions for allowance for attendance at meetings and travel expenses of \$50 and \$10, respectively.

1954—Act Aug. 9, 1954, amended section generally to provide for the independent management of the Bank under a Board of Directors and for the appointment of a President and First Vice President of the Bank.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. I, title IV, §409(b), Dec. 20, 2019, 133 Stat. 3026, provided that: "The amendments made by subsection (a) [amending this section] shall have no force or effect after December 31, 2026."

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 54002(c) of Pub. L. 114-94 applicable with respect to fiscal year 2016 and each fiscal year thereafter, see section 54002(e) of Pub. L. 114-94, set out as a note under section 635 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-122, §9(b), May 30, 2012, 126 Stat. 356, provided that: "The amendment made by subsection (a) [amending this section] shall take effect 60 days after the date of the enactment of this Act [May 30, 2012]."

Amendment by sections 19-20(b)(1) of Pub. L. 112-122 effective May 30, 2012, see section 25 of Pub. L. 112-122, set out as a note under section 635 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Act Aug. 9, 1954, ch. 660, §4, 68 Stat. 678, provided that: "The provisions of this Act for the appointment of a President and a First Vice President of the Bank and the members of the Board of Directors shall be effective upon its enactment [Aug. 9, 1954]. The remaining provisions of this Act shall become effective

when the President and First Vice President of the Bank and one other member of the Board of Directors initially appointed hereunder enter upon office, and shall thereupon supersede Reorganization Plan No. 5 of 1953 [set out below]."

TERMINATION OF AUDIT COMMITTEE

Pub. L. 114–94, div. E, title LI, §51006(b), Dec. 4, 2015, 129 Stat. 1766, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 4, 2015], the Board of Directors of the Export-Import Bank of the United States shall revise the bylaws of the Bank to terminate the Audit Committee established by section 7 of the bylaws."

UNTIED AID

Pub. L. 107–189, §10(a), June 14, 2002, 116 Stat. 702, provided that:

"(1) NEGOTIATIONS.—The Secretary of the Treasury shall seek to negotiate an OECD Arrangement on Untied Aid. In the negotiations, the Secretary should seek agreement on subjecting untied aid to the rules governing the Arrangement, including the rules governing disclosure.

"(2) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act [June 14, 2002], the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the successes, failures, and obstacles in initiating negotiations, and if negotiations were initiated, in reaching the agreement described in paragraph (1)."

BOARD OF DIRECTORS; EXCEPTION TO QUORUM REQUIREMENT

Pub. L. 106–46, §1(b), Aug. 11, 1999, 113 Stat. 227, as amended by Pub. L. 106–62, §122, Sept. 30, 1999, 113 Stat. 509; Pub. L. 106–85, Oct. 29, 1999, 113 Stat. 1297; Pub. L. 106–88, Nov. 5, 1999, 113 Stat. 1304; Pub. L. 106–94, Nov. 10, 1999, 113 Stat. 1311; Pub. L. 106–105, Nov. 18, 1999, 113 Stat. 1484; Pub. L. 106–106, Nov. 19, 1999, 113 Stat. 1485, provided that: "Notwithstanding section 3(c)(6) of the Export-Import Bank Act of 1945 [12 U.S.C. 635a(c)(6)], if, during the period that begins on July 21, 1999, and ends on December 2, 1999, there are fewer than three persons holding office on the Board of Directors of the Export-Import Bank of the United States, the entire membership of such Board of Directors shall constitute a quorum until the end of such period."

COMPENSATION OF EMPLOYEES

Pub. L. 102–429, title I, §117, Oct. 21, 1992, 106 Stat. 2196, provided that:

"[(a) Repealed. Pub. L. 102–429, title I, §117(b), Oct. 21, 1992, 106 Stat. 2196.]

"(b) SUNSET.—Effective 2 years after the date of enactment of this Act [Oct. 21, 1992], subsection (a) is hereby repealed.

"(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States shall submit a report to the Congress on—

"(1) the recruitment and employee retention problems of the Bank;

"(2) any relief from such problems afforded by the Office of Personnel Management;

"(3) any use of the authority provided in subsection (a); and

"(4) the conclusions and recommendations of the Bank with respect to—

"(A) whether such problems have been satisfactorily addressed; and

"(B) whether or not the authority of subsection (a) should be extended."

[Pub. L. 118–47, div. F, title VI, Mar. 23, 2024, 138 Stat. 753, provided in part: "That notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992 [Pub. L. 102–429, set out above], subsection (a) of such section shall remain in effect until September 30, 2024".]

[Prior to repeal, section 117(a) of Pub. L. 102–429 read as follows: "IN GENERAL.—The Board of Directors of the Export-Import Bank of the United States may compensate not more than 35 employees of the Bank without regard to the provisions of chapter 51 or subchapter III or VIII of chapter 53 of title 5, United States Code."]

[Prior similar extensions of section 117(a) of Pub. L. 102–429 were contained in the following acts:

[Pub. L. 117–328, div. K, title VI, Dec. 29, 2022, 136 Stat. 4997.

[Pub. L. 117–103, div. K, title VI, Mar. 15, 2022, 136 Stat. 588.

[Pub. L. 116–260, div. K, title VI, Dec. 27, 2020, 134 Stat. 1716.

[Pub. L. 113–235, div. J, title VI, Dec. 16, 2014, 128 Stat. 2598.

[Pub. L. 113–76, div. K, title VI, Jan. 17, 2014, 128 Stat. 489.

[Pub. L. 112–74, div. I, title VI, Dec. 23, 2011, 125 Stat. 1191.

[Pub. L. 111–117, div. F, title VI, Dec. 16, 2009, 123 Stat. 3341.

[Pub. L. 111–8, div. H, title VI, Mar. 11, 2009, 123 Stat. 859.
[Pub. L. 110–161, div. J, title II, Dec. 26, 2007, 121 Stat. 2290.
[Pub. L. 109–102, title I, Nov. 14, 2005, 119 Stat. 2173.
[Pub. L. 108–447, div. D, title I, Dec. 8, 2004, 118 Stat. 2969.
[Pub. L. 108–199, div. D, title I, Jan. 23, 2004, 118 Stat. 143.
[Pub. L. 108–7, div. E, title I, Feb. 20, 2003, 117 Stat. 160.
[Pub. L. 107–115, title I, Jan. 10, 2002, 115 Stat. 2119.
[Pub. L. 106–429, §101(a) [title I], Nov. 6, 2000, 114 Stat. 1900, 1900A–4.
[Pub. L. 106–113, div. B, §1000(a)(2) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–64.
[Pub. L. 105–277, div. A, §101(d) [title I], Oct. 21, 1998, 112 Stat. 2681–150, 2681–151.
[Pub. L. 105–118, title I, Nov. 26, 1997, 111 Stat. 2387.
[Pub. L. 104–208, div. A, title I, §101(c) [title I], Sept. 30, 1996, 110 Stat. 3009–121, 3009–122.
[Pub. L. 104–107, title I, Feb. 12, 1996, 110 Stat. 705.
[Pub. L. 103–306, title IV, Aug. 23, 1994, 108 Stat. 1623.]

REPORT ON REGIONAL OFFICES

Pub. L. 102–429, title I, §118, Oct. 21, 1992, 106 Stat. 2197, directed Export-Import Bank, not later than 1 year after Oct. 21, 1992, to submit a report to Congress on the Bank's plan to establish and operate regional offices.

APPOINTMENT OF MEMBER OF BOARD TO REPRESENT INTERESTS OF SMALL BUSINESS COMMUNITY

Pub. L. 98–181, title I [title VI, §614(b)], Nov. 30, 1983, 97 Stat. 1256, provided that: "In order to carry out the amendment made by subsection (a) regarding section 3(c)(8)(B) of the Export-Import Bank Act of 1945 [subsec. (c)(8)(B) of this section], the first member, other than a member who will serve as Chairman or Vice Chairman of the Bank, appointed by the President of the United States to the Board of Directors of the Export-Import Bank of the United States after the date of the enactment of this section [Nov. 30, 1983] shall be selected from among the small business community and shall represent the interests of small business."

BOARD OF DIRECTORS; ADVISORY COMMITTEE

A Board of Directors and an Advisory Committee reestablished for the Export-Import Bank of Washington, see note set out under section 635 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

TERMINATION OF FOREIGN ECONOMIC ADMINISTRATION

Foreign Economic Administration and office of its Administrator terminated by Ex. Ord. No. 9630, Sept. 27, 1945, 10 F.R. 12245.

REORGANIZATION PLAN NO. 5 OF 1953

18 F.R. 3741, 67 STAT. 637

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 30, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

THE EXPORT-IMPORT BANK OF WASHINGTON

SECTION 1. THE MANAGING DIRECTOR

There is hereby established the office of Managing Director of the Export-Import Bank of Washington, hereinafter referred to as the "Managing Director." The Managing Director shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$17,500 per

annum.

SEC. 2. DEPUTY DIRECTOR

There is hereby established the office of Deputy Director of the Export-Import Bank of Washington. The Deputy Director shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate of \$16,000 per annum, shall perform such functions as the Managing Director may from time to time prescribe, and shall act as Managing Director during the absence or disability of the Managing Director or in the event of a vacancy in the office of Managing Director.

SEC. 3. ASSISTANT DIRECTOR

There is hereby established the office of Assistant Director of the Export-Import Bank of Washington. The Assistant Director shall be appointed by the Managing Director under the classified civil service, shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5], and shall perform such functions as the Managing Director may from time to time prescribe.

SEC. 4. FUNCTIONS TRANSFERRED TO THE MANAGING DIRECTOR

All functions of the Board of Directors of the Export-Import Bank of Washington are hereby transferred to the Managing Director.

SEC. 5. GENERAL POLICIES

The National Advisory Council on International Monetary and Financial Problems shall from time to time establish general lending and other financial policies which shall govern the Managing Director in the conduct of the lending and other financial operations of the bank.

SEC. 6. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Managing Director may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Managing Director by any other officer, or by any agency or employee, of the bank.

SEC. 7. ABOLITION

The following are hereby abolished: (1) The Board of Directors of the Export-Import Bank of Washington, including the offices of the members thereof provided for in section 3(a) of the Export-Import Bank Act of 1945, as amended [subsection (a) of this section]; (2) the Advisory Board of the Bank, together with the functions of the said Advisory Board; and (3) the function of the Chairman of the Board of Directors of the Export-Import Bank of Washington of being a member of the National Advisory Council on International Monetary and Financial Problems. The Managing Director shall make such provisions as may be necessary for winding up any outstanding affairs of the said abolished boards and offices not otherwise provided for in this reorganization plan.

SEC. 8. EFFECTIVE DATE

Sections 3 to 7, inclusive, of this reorganization plan shall become effective when the Managing Director first appointed hereunder enters upon office pursuant to the provisions of this reorganization plan.

[A Board of Directors was reestablished for the Export-Import Bank of Washington by section 1 of act Aug. 9, 1954, ch. 660, 68 Stat. 677, which amended this section. The Board had previously been abolished and its functions transferred to the Managing Director of the Bank by Reorg. Plan No. 5 of 1953, set out above. The 1953 Reorg. Plan was superseded by sections 1, 4 of act Aug. 9, 1954. See this section and 1954 Amendment and Effective Date of 1954 Amendment notes set out above. The "Export-Import Bank of Washington" was renamed the "Export-Import Bank of the United States" by Pub. L. 90-267, §1(a), Mar. 13, 1968, 82 Stat. 47.]

UNITED STATES TRADE REPRESENTATIVE AND SECRETARY OF COMMERCE AS ADDITIONAL MEMBERS OF BOARD OF DIRECTORS OF EXPORT-IMPORT BANK OF THE UNITED STATES

For provisions directing that the United States Trade Representative and the Secretary of Commerce serve, ex officio and without vote, as additional members of the Board of Directors of the Export-Import Bank of the United States, see section 3 of 1979 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

§635a–1. Export credit competition

(a) The President is authorized and requested to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States. The President shall report to the Congress prior to January 15, 1979, on progress toward meeting the goals of this section.

(b) The Export-Import Bank of the United States is authorized to provide guarantees, insurance, and extensions of credit at rates and terms and other conditions which are, in the opinion of the Board of Directors of the Bank, competitive with those provided by the government-supported export credit instrumentalities of other nations.

(Pub. L. 95–630, title XIX, §1908, Nov. 10, 1978, 92 Stat. 3725.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.

§635a–2. Implementation of regulations and procedures to lessen adverse effect of loans and guarantees on industries in United States; report by United States International Trade Commission; written consideration of views of adversely affected parties

The Bank shall implement such regulations and procedures as may be appropriate to insure that full consideration is given to the extent to which any loan or financial guarantee is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this subsection,¹ the Bank shall request, and the United States International Trade Commission shall furnish, a report assessing the impact of the Bank's activities on industries and employment in the United States. Such report shall include an assessment of previous loans or financial guarantees and shall provide recommendations concerning general areas which may adversely affect domestic industries, including agriculture, and employment. After October 1, 1983, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. In all cases to which this section applies, the Bank shall consider and address in writing the views of parties or persons who may be substantially adversely affected by the loan or guarantee prior to taking final action on the loan or guarantee. This requirement does not subject the Bank to the provisions of subchapter II of chapter 5 of title 5.

(Pub. L. 95–630, title XIX, §1911, Nov. 10, 1978, 92 Stat. 3726; Pub. L. 98–181, title I [title VI, §632], Nov. 30, 1983, 97 Stat. 1262; Pub. L. 99–472, §12, Oct. 15, 1986, 100 Stat. 1204.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

1986—Pub. L. 99-472 inserted provisions which required written consideration by Bank of views of parties or persons who may be substantially adversely affected by loan or guarantee prior to taking final action on loan or guarantee without subjecting Bank to subchapter II of chapter 5 of title 5.

1983—Pub. L. 98-181 inserted provision that after October 1, 1983, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95-630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.

IMPROVEMENT OF METHOD FOR CALCULATING THE EFFECTS OF BANK FINANCING ON JOB CREATION AND MAINTENANCE IN THE UNITED STATES

Pub. L. 112-122, §16, May 30, 2012, 126 Stat. 359, provided that:

"(a) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the process and methodology used by the Export-Import Bank of the United States (in this section referred to as the 'Bank') to calculate the effects of the provision of financing by the Bank on the creation and maintenance of employment in the United States, determine and assess the basis on which the Bank has so used the methodology, and make any recommendations the Comptroller General deems appropriate.

"(b) REPORT.—Within 1 year after the date of the enactment of this Act [May 30, 2012], the Comptroller General shall submit to the Congress and the Bank the results of the study required by subsection (a).

"(c) IMPLEMENTATION OF RECOMMENDATIONS.—If the report submitted pursuant to subsection (b) includes recommendations, the Bank may establish a more accurate methodology of the kind described in subsection (a) based on the recommendations."

¹ So in original. Probably should be "section."

§635a-3. Export-Import Bank financing to match foreign financing

(a) Noncompetitive financing; inquiry by Secretary; notification of foreign country and prospective parties to transaction

(1) Upon receipt of information that foreign sales to the United States are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether "noncompetitive financing" is being offered. The inquiry, and where appropriate, the determination and authorization to the Export-Import Bank of the United States referred to in this section shall be completed and made within 60 days of the receipt of such information.

(2) If the Secretary determines that such foreign "noncompetitive" financing is being offered, the Secretary shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing United States sellers with financing to match that available through the foreign official export financing entity.

(b) Issuance of authorization to Bank to provide guarantees, insurance, and credits to competing United States sellers

The Secretary of the Treasury shall issue such authorization to the Bank to provide guarantees, insurance, and credits to competing United States sellers, unless the Secretary determines that—

(1) the availability of foreign official noncompetitive financing is not likely to be a significant

factor in the sale; or

(2) the foreign noncompetitive financing has been withdrawn.

(c) Provision of financing by Bank pursuant to authorization

Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity: *Provided, however,* That loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended [12 U.S.C. 635 et seq.].

(Pub. L. 95-630, title XIX, §1912, Nov. 10, 1978, 92 Stat. 3726; Pub. L. 98-181, title I [title VI, §§631, 633], Nov. 30, 1983, 97 Stat. 1262, 1263; Pub. L. 99-472, §15, Oct. 15, 1986, 100 Stat. 1204.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Export-Import Bank Act of 1945, as amended, referred to in subsec. (c), is act July 31, 1945, ch. 341, 59 Stat. 526, which is classified generally to subchapter 1 (§635 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 635 of this title and Tables.

CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99-472, §15(b), which directed the insertion of "irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices," after "major export countries have agreed," was executed by inserting that phrase after "major exporting countries have agreed," as the probable intent of Congress.

Subsec. (b). Pub. L. 99-472, §15(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing United States sellers, if the Secretary determines that:

"(1) the availability of foreign official noncompetitive financing is likely to be a significant factor in the sale, and

"(2) the foreign noncompetitive financing has not been withdrawn on the date the Bank is authorized to provide competitive financing."

1983—Subsec. (a)(1). Pub. L. 98-181, §631(1), inserted provision that the inquiry, and where appropriate, the determination and authorization to the Export-Import Bank of the United States referred to in this section shall be completed and made within 60 days of the receipt of such information.

Subsec. (a)(2). Pub. L. 98-181, §633(b), substituted "the Secretary shall request" for "he shall request".

Subsec. (b). Pub. L. 98-181, §633(a), substituted "if the Secretary determines that" for "if he determines that" in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98-181, §631(2), substituted "significant factor" for "determining factor".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95-630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.

§635a-4. Guarantees for export accounts receivable and inventory

The Export-Import Bank of the United States is authorized and directed to establish a program to provide guarantees for loans extended by financial institutions or other public or private creditors to export trading companies as defined in section 1843(c)(14)(F)(i) of this title, or to other exporters, when such loans are secured by export accounts receivable, inventories of exportable goods,

accounts receivable from leases, performance contracts, grant commitments, participation fees, member dues, revenue from publications, or such other collateral as the Board of Directors may deem appropriate, and when in the judgment of the Board of Directors—

- (1) the private credit market is not providing adequate financing to enable otherwise creditworthy export trading companies or exporters to consummate export transactions; and
- (2) such guarantees would facilitate expansion of exports which would not otherwise occur.

The Board of Directors shall attempt to insure that a major share of any loan guarantees ultimately serves to promote exports from small, medium-size, and minority businesses or agricultural concerns. Guarantees provided under the authority of this section shall be subject to limitations contained in annual appropriations Acts.

(Pub. L. 97–290, title II, §206, Oct. 8, 1982, 96 Stat. 1239; Pub. L. 98–181, title I [title VI, §616(b)], Nov. 30, 1983, 97 Stat. 1257.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Bank Export Services Act, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

1983—Pub. L. 98–181 substituted "export accounts receivable, inventories of exportable goods, accounts receivable from leases, performance contracts, grant commitments, participation fees, member dues, revenue from publications, or such other collateral as the Board of Directors may deem appropriate," for "export accounts receivable or inventories of exportable goods".

§635a–5. Negotiations to end export credit financing

(a) In general

The President shall initiate and pursue negotiations—

(1) with other major exporting countries, including members of the Organisation for Economic Co-operation and Development (in this section referred to as the "OECD") and non-OECD members, to substantially reduce, with the possible goal of eliminating, before the date that is 10 years after December 4, 2015,¹ subsidized export financing programs and other forms of export subsidies; and

(2) with all countries that finance air carrier aircraft with funds from a state-sponsored entity, to substantially reduce, with the ultimate goal of eliminating, aircraft export credit financing for all aircraft covered by the 2007 Sector Understanding on Export Credits for Civil Aircraft (in this section referred to as the "ASU"), including any modification thereof, and all of the following types of aircraft:

- (A) Heavy aircraft that are capable of a takeoff weight of 300,000 pounds or more, whether or not operating at such a weight during a particular phase of flight.
- (B) Large aircraft that are capable of a takeoff weight of more than 41,000 pounds, and have a maximum certificated takeoff weight of not more than 300,000 pounds.
- (C) Small aircraft that have a maximum certificated takeoff weight of 41,000 pounds or less.

(b) Annual reports on progress of negotiations

Not later than 180 days after May 30, 2012, and annually thereafter, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

- (1) a report on the progress of any negotiations described in subsection (a)(1), until the President certifies in writing to the committees that all countries that support subsidized export financing programs have agreed to end the support; and

(2) a report on the progress of any negotiations described in subsection (a)(2), including the progress of any negotiations with respect to each classification of aircraft set forth in subsection (a)(2), until the President certifies in writing to the committees that all countries that support subsidized export financing programs have agreed to end the support of aircraft covered by the ASU.

(c) Report on strategy

Not later than 180 days after December 4, 2015, the President shall submit to Congress a proposal, and a strategy for achieving the proposal, that the United States Government will pursue with other major exporting countries, including OECD members and non-OECD members, to eliminate over a period of not more than 10 years subsidized export-financing programs, tied aid, export credits, and all other forms of government-supported export subsidies.

(d) Negotiations with non-OECD members

The President shall initiate and pursue negotiations with countries that are not OECD members to bring those countries into a multilateral agreement establishing rules and limitations on officially supported export credits.

(e) Annual reports on progress of negotiations

Not later than 180 days after December 4, 2015, and annually thereafter through calendar year 2019, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the progress of any negotiations described in subsection (d).

(Pub. L. 112–122, §11, May 30, 2012, 126 Stat. 356; Pub. L. 114–94, div. E, title LV, §55002(a), Dec. 4, 2015, 129 Stat. 1769.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Export-Import Bank Reauthorization Act of 2012, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94, §55002(a)(1)(A), in introductory provisions, substituted "President" for "Secretary of the Treasury (in this section referred to as the 'Secretary')".

Subsec. (a)(1). Pub. L. 114–94, §55002(a)(1)(B), substituted "(in this section referred to as the 'OECD') for "(OECD)" and "possible goal of eliminating, before the date that is 10 years after December 4, 2015," for "ultimate goal of eliminating".

Subsec. (b). Pub. L. 114–94, §55002(a)(2), substituted "President" for "Secretary" wherever appearing.

Subsecs. (c) to (e). Pub. L. 114–94, §55002(a)(3), added subsecs. (c) to (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. E, title LV, §55002(b), Dec. 4, 2015, 129 Stat. 1770, provided that: "The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall apply with respect to reports required to be submitted under section 11(b) of the Export-Import Bank Reauthorization Act of 2012 (12 U.S.C. 635a–5(b)) after the date of the enactment of this Act [Dec. 4, 2015]."

EXECUTIVE DOCUMENTS

**DELEGATION OF AUTHORITY UNDER SECTION 11 OF THE EXPORT-IMPORT BANK
REAUTHORIZATION ACT OF 2012**

Memorandum of President of the United States, Mar. 11, 2016, 81 F.R. 14367, provided:
Memorandum for the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authorities vested in the President by section 11 of the Export-Import Bank Reauthorization Act of 2012, as amended.

In exercising functions and authority delegated by this memorandum, you shall ensure that all actions taken by you are consistent with the President's constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations; and (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

¹ *So in original.*

§635a–6. Periodic audits of bank transactions

(a) In general

Within 2 years after May 30, 2012, and periodically (but not less frequently than every 4 years) thereafter, the Comptroller General of the United States shall conduct an audit of the loan and guarantee transactions of the Export-Import Bank of the United States to determine the compliance of the Bank with the underwriting guidelines, lending policies, due diligence procedures, and content guidelines of the Bank.

(b) Review of fraud controls

Not later than 4 years after December 4, 2015, and every 4 years thereafter, the Comptroller General of the United States shall—

(1) review the adequacy of the design and effectiveness of the controls used by the Export-Import Bank of the United States to prevent, detect, and investigate fraudulent applications for loans and guarantees and the compliance by the Bank with the controls, including by auditing a sample of Bank transactions; and

(2) submit a written report regarding the findings of the review and providing such recommendations with respect to the controls described in paragraph (1) as the Comptroller General deems appropriate to—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate; and

(B) the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.

(Pub. L. 112–122, §17, May 30, 2012, 126 Stat. 359; Pub. L. 114–94, div. E, title LI, §51003, Dec. 4, 2015, 129 Stat. 1763.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Export-Import Bank Reauthorization Act of 2012, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–94 amended subsec. (b) generally. Prior to amendment, text read as follows: "The Comptroller General of the United States shall review the adequacy of the design and effectiveness of the controls used by the Export-Import Bank of the United States to prevent, detect, and investigate fraudulent applications for loans and guarantees, including by auditing a sample of Bank transactions, and submit to the Congress a written report which contains such recommendations with respect to the controls as the Comptroller General deems appropriate."

§635a–7. Independent audit of bank portfolio

(a) Audit

The Inspector General of the Export-Import Bank of the United States shall conduct an audit or evaluation of the portfolio risk management procedures of the Bank, including a review of the implementation by the Bank of the duties assigned to the Chief Risk Officer under section 635a(l) of this title, as amended by section 51005.

(b) Report

Not later than 1 year after December 4, 2015, and not less frequently than every 3 years thereafter, the Inspector General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a written report containing all findings and determinations made in carrying out subsection (a).

(Pub. L. 114–94, div. E, title LI, §51007, Dec. 4, 2015, 129 Stat. 1766.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 635a(l) of this title, as amended by section 51005, referred to in subsec. (a), is section 635a(l) of this title, as amended by section 51005 of Pub. L. 114–94.

CODIFICATION

Section was enacted as part of the Fixing America's Surface Transportation Act, also known as the FAST Act, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

§635b. Capitalization of Bank; method of capital stock payments; public-debt transactions; issuance of stock certificates

The Export-Import Bank of the United States shall have a capital stock of \$1,000,000,000 subscribed by the United States. Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as the President may designate from time to time, to the extent of payments made for the capital stock of the Bank.

(July 31, 1945, ch. 341, §4, 59 Stat. 528; Pub. L. 90–267, §1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 98–181, title I [title VI, §620(c)], Nov. 30, 1983, 97 Stat. 1261; Pub. L. 102–429, title I, §121(b), Oct. 21, 1992, 106 Stat. 2198.)

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–429 inserted second sentence and struck out former second through last sentences which read as follows: "Payment for \$1,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the common stock issued prior to July 31, 1945, by the Bank and purchased by the United States. Payment for \$174,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the preferred stock heretofore issued by the Bank and purchased by the Reconstruction Finance Corporation. Payment for the \$825,000,000 balance of such capital stock shall be subject to call at any time in whole or in part by the Board of Directors of the Bank. For the purpose of making payments of such balance, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this section of the subscription of the United States to the Bank and repayments thereof shall be treated as public-debt transactions of the United States. Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as the President may designate from time to

time, to the extent of the common and preferred stock surrendered and other payments made for the capital stock of the Bank under this section."

1983—Pub. L. 98–181 substituted "the President" for "he" before "may designate".

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

§635c. Repealed. Pub. L. 102–429, title I, §121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section, act July 31, 1945, ch. 341, §5, 59 Stat. 528, related to reimbursement of Reconstruction Finance Corporation for cancellation of Bank stock, public debt transactions, and payment of accumulated dividends.

§635d. Issuance of debentures, bonds, etc.; obligations redeemable; payment of interest; obligations purchasable by Secretary of the Treasury; public-debt transactions

The Export-Import Bank of the United States is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$6,000,000,000. Such obligations shall be redeemable at the option of the bank before maturity in such manner as may be stipulated in such obligations and shall have such maturity as may be determined by the Board of Directors of the bank with the approval of the Secretary of the Treasury. Each such Bank obligation issued to the Treasury after January 4, 1975, shall bear interest at a rate not less than the current average yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation of the Bank as determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Bank issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this section of the purchase price of such obligations of the Bank and repayments thereof by the Bank shall be treated as public-debt transactions of the United States.

(July 31, 1945, ch. 341, §5, formerly §6, 59 Stat. 528; June 9, 1947, ch. 101, §2, 61 Stat. 131; Oct. 3, 1951, ch. 445, §1(a), 65 Stat. 367; Aug. 9, 1954, ch. 660, §3(a), 68 Stat. 678; Pub. L. 85–424, §1(1), May 22, 1958, 72 Stat. 133; Pub. L. 90–267, §1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 93–646, §7, Jan. 4, 1975, 88 Stat. 2336; renumbered §5, Pub. L. 102–429, title I, §121(c)(2), Oct. 21, 1992, 106 Stat. 2199.)

EDITORIAL NOTES

CODIFICATION

"Chapter 31 of title 31" and "that chapter" substituted in text for "the Second Liberty Bond Act, as amended" and "that Act", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 5 of act July 31, 1945, ch. 341, was classified to section 635c of this title, prior to repeal by Pub. L. 102–429, §121(c)(1).

AMENDMENTS

1975—Pub. L. 93–646 substituted provision making mandatory that each Bank obligation bear interest at a rate not less than the current average yield on outstanding obligations of comparable maturity, for provision requiring that only the current average rate be taken into consideration.

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of

the United States".

1958—Pub. L. 85-424 substituted "\$6,000,000,000" for "\$4,000,000,000".

1954—Act Aug. 9, 1954, substituted "\$4,000,000,000" for "three and one-half times the authorized capital stock of the Bank".

1951—Act Oct. 3, 1951, substituted "three and one-half" for "two and one-half".

1947—Act June 9, 1947, struck out "and bear such rate of interest" before "as may be determined" in the second sentence and added the third sentence relating to the rate of interest on obligations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendment by act Aug. 9, 1954, see note set out under section 635a of this title.

BOARD OF DIRECTORS

A Board of Directors reestablished for the Export-Import Bank of Washington, see note under section 635 of this title.

§635e. Aggregate loan, guarantee, and insurance authority

(a) Limitation on outstanding amounts

(1) In general

The Export-Import Bank of the United States shall not have outstanding at any one time loans, guarantees, and insurance in an aggregate amount in excess of the applicable amount.

(2) Applicable amount defined

In this subsection, the term "applicable amount", for each of fiscal years 2020 through 2027, means \$135,000,000,000.

(3) Freezing of lending cap if default rate is 2 percent or more

If the rate calculated under section 635g(g)(1) of this title is 2 percent or more for a quarter, the Bank may not exceed the amount of loans, guarantees, and insurance outstanding on the last day of that quarter until the rate calculated under section 635g(g)(1) of this title is less than 2 percent.

(4) Subject to appropriations

All spending and credit authority provided under this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) Reserve requirement

The Bank shall build to and hold in reserve, to protect against future losses, an amount that is not less than 5 percent of the aggregate amount of disbursed and outstanding loans, guarantees, and insurance of the Bank.

(c) Presidential determination

(1) In general

Not later than March 31 of each fiscal year, the President of the United States shall determine whether the authority available to the Bank for such fiscal year will be sufficient to meet the Bank's needs, particularly those needs arising from—

(A) increases in the level of exports unforeseen at the time of the original budget request for such fiscal year;

(B) any increased foreign export credit subsidies; or

(C) the lack of progress in negotiations to reduce or eliminate export credit subsidies.

(2) Request for legislation

(A) In general

If the President of the United States finds that the amount of direct loan authority or guarantee authority available to the Bank for the fiscal year involved exceeds the amount which will be necessary to carry out the Bank's functions consistent with the availability of qualified applications and limitations imposed by law during such year, the President of the United States shall promptly transmit to the Congress a request for legislation to eliminate the amount of such excess direct loan, loan guarantee, or insurance authority.

(B) Continued availability of authority

The Bank shall continue to make remaining amounts of its authority available for the fiscal year involved, in accordance with its practices and the requirements of this subchapter, unless otherwise directed pursuant to law.

(July 31, 1945, ch. 341, §6, formerly §7, 59 Stat. 529; Oct. 3, 1951, ch. 445, §1(b), 65 Stat. 367; May 21, 1953, ch. 64, §2, 67 Stat. 28; Aug. 9, 1954, ch. 660, §3(b), 68 Stat. 678; Pub. L. 85-424, §1(2), May 22, 1958, 72 Stat. 133; Pub. L. 88-101, §1(b), Aug. 20, 1963, 77 Stat. 128; Pub. L. 90-267, §1(a), (e), Mar. 13, 1968, 82 Stat. 47, 49; Pub. L. 92-126, §1(b)(3), Aug. 17, 1971, 85 Stat. 345; Pub. L. 93-646, §8, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95-630, title XIX, §§1905, 1914, Nov. 10, 1978, 92 Stat. 3725, 3727; Pub. L. 97-35, title III, §381(a), Aug. 13, 1981, 95 Stat. 431; Pub. L. 98-181, title I [title VI, §§615, 620(d)], Nov. 30, 1983, 97 Stat. 1256, 1261; Pub. L. 99-472, §§13, 17, Oct. 15, 1986, 100 Stat. 1204, 1205; Pub. L. 102-145, §121(1), Oct. 28, 1991, as added Pub. L. 102-266, §102, Apr. 1, 1992, 106 Stat. 95; renumbered §6 and amended Pub. L. 102-429, title I, §§109(b), 121(c)(2), Oct. 21, 1992, 106 Stat. 2193, 2199; Pub. L. 106-569, title XI, §1104(a)(3), Dec. 27, 2000, 114 Stat. 3031; Pub. L. 107-189, §5, June 14, 2002, 116 Stat. 699; Pub. L. 109-438, §9, Dec. 20, 2006, 120 Stat. 3275; Pub. L. 112-122, §3, May 30, 2012, 126 Stat. 350; Pub. L. 114-94, div. E, title LI, §§51001, 51002(a), Dec. 4, 2015, 129 Stat. 1763; Pub. L. 116-94, div. I, title IV, §401(b), Dec. 20, 2019, 133 Stat. 3021.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 6 of act July 31, 1945, ch. 341, was renumbered section 5 and is classified to section 635d of this title.

AMENDMENTS

2019—Subsec. (a)(2). Pub. L. 116-94 substituted "for each of fiscal years 2020 through 2027" for "for each of fiscal years 2015 through 2019".

2015—Subsec. (a)(2) to (4). Pub. L. 114-94, §51001, added pars. (2) and (3), redesignated former par. (3) as (4), and struck out former par. (2) which defined the term "applicable amount".

Subsecs. (b), (c). Pub. L. 114-94, §51002(a), added subsec. (b) and redesignated former subsec. (b) as (c).

2012—Subsec. (a)(2)(F). Pub. L. 112-122 added subpar. (F).

2006—Subsec. (a)(2)(E). Pub. L. 109-438 amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "during fiscal year 2006, \$100,000,000,000."

2002—Subsec. (a). Pub. L. 107-189 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "The Export-Import Bank of the United States shall not have outstanding at any one time loans, guaranties, and insurance in an aggregate amount in excess of \$75,000,000,000. All spending and credit authority provided under this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts."

2000—Subsec. (b)(2), (3). Pub. L. 106-569 redesignated par. (3) as (2) and struck out heading and text of former par. (2). Text read as follows: "Not later than April 15 of each year, the President of the United States shall transmit to the Congress a report on such determination."

1992—Pub. L. 102-429, §109(b), inserted section catchline, redesignated former subsec. (a)(1) as subsec. (a), inserted subsec. heading, substituted "\$75,000,000,000" for "\$40,000,000,000", redesignated former subsec. (a)(2) as subsec. (b), redesignated former subpar. (A)(i) as par. (1), former subcls. (I) to (III) as subpars. (A) to (C), respectively, former subpar. (A)(ii) as par. (2), former subpar. (B) as par. (3), and former cls. (i) and (ii) as subpars. (A) and (B), respectively, inserted headings for subsec. (b), pars. (1) to (3), and subpars. (A) and (B) of par. (3), and struck out former subsec. (a)(3) which read as follows: "

AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated \$145,259,000 for fiscal year 1987 to cover the subsidy cost of new direct loans obligated by the Bank in that fiscal year. Any amounts appropriated under this paragraph shall be permanent additions to the capital and reserves of the Bank."

1991—Subsec. (b). Pub. L. 102–145, §121(1), as added by Pub. L. 102–266, struck out subsec. (b) which read as follows: "After January 4, 1975, the Bank shall not approve any loans or financial guarantees, or combination thereof, in connection with exports to the Union of Soviet Socialist Republics in an aggregate amount in excess of \$300,000,000. No such loan or financial guarantee, or combination thereof, shall be for the purchase, lease, or procurement of any product or service for production (including processing and distribution) of fossil fuel energy resources. Not more than \$40,000,000 of such aggregate amount shall be for the purchase, lease, or procurement of any product or service which involves research or exploration of fossil fuel energy resources. The President may establish a limitation in excess of \$300,000,000 if the President determines that such higher limitation is in the national interest and if the President reports such determination to the Congress together with the reasons therefor, including the amount of such proposed increase which would be available for the export of products and services for research, exploration, and production (including processing and distribution) of fossil fuel energy resources in the Union of Soviet Socialist Republics, and if, after the receipt of such report together with the reasons, the Congress adopts a concurrent resolution approving such determination."

1986—Subsec. (a)(1). Pub. L. 99–472, §17, substituted "All spending and credit authority" for "All spending authority".

Subsec. (a)(3). Pub. L. 99–472, §13, added par. (3).

1983—Subsec. (a)(2). Pub. L. 98–181, §615, amended par. (2) generally, substituting provisions requiring a Presidential determination, not later than March 31 of each fiscal year, as to whether the authority available to the Bank for such fiscal year will be sufficient to meet the Bank's needs, requiring the President to transmit to Congress a report on such determination no later than April 15 of each year, and establishing procedures if the direct loan or guarantee authority available exceeds the amount necessary, for provision limiting gross obligations for the principal amount of direct loans authorized by the Bank during fiscal years 1982 and 1983 to \$10,478,000,000, and designating specified amounts thereof for each fiscal year.

Subsec. (b). Pub. L. 98–181, §620(d), substituted "the President" for "he" before "determines that such higher limitation" and "reports such determination".

1981—Subsec. (a). Pub. L. 97–35 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (a). Pub. L. 95–630 substituted "\$40,000,000,000" for "\$25,000,000,000" and inserted provision that all spending authority provided under this chapter be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

1975—Subsec. (a). Pub. L. 93–646, §8(1), (2), designated existing provisions as subsec. (a) and substituted "\$25,000,000,000" for "\$20,000,000,000".

Subsec. (b). Pub. L. 93–646, §8(3), added subsec. (b).

1971—Pub. L. 92–126 substituted "\$20,000,000,000" for "\$13,500,000,000".

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States" and substituted "\$13,500,000,000" for "\$9,000,000,000".

1963—Pub. L. 88–101 substituted "\$9,000,000,000" for "\$7,000,000,000".

1958—Pub. L. 85–424 substituted "\$7,000,000,000" for "\$5,000,000,000".

1954—Act Aug. 9, 1954, substituted "\$5,000,000,000" for "four and one-half times the authorized capital stock of the Bank".

1953—Act May 21, 1958, substituted "loans, guaranties, and insurance" for "loans and guaranties".

1951—Act Oct. 3, 1951, substituted "four and one-half" for "three and one-half".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. E, title LI, §51002(b), Dec. 4, 2015, 129 Stat. 1763, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date that is one year after the date of the enactment of this Act [Dec. 4, 2015]."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–630 effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as a note under section 635 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendment by act Aug. 9, 1954, see note set out under section 635a of this title.

§635f. Termination date of Bank's functions; exceptions; liquidation

Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on December 31, 2026, but the provisions of this section shall not be construed as preventing the bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date or from issuing, either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the bank.

(July 31, 1945, ch. 341, §7, formerly §8, 59 Stat. 529; June 9, 1947, ch. 101, §3, 61 Stat. 131; Oct. 3, 1951, ch. 445, §1(c), 65 Stat. 367; Pub. L. 85–55, June 17, 1957, 71 Stat. 82; Pub. L. 88–101, §2, Aug. 20, 1963, 77 Stat. 128; Pub. L. 90–267, §1(a), (f), Mar. 13, 1968, 82 Stat. 47, 49; Pub. L. 92–126, §1(b)(4), Aug. 17, 1971, 85 Stat. 345; Pub. L. 93–331, July 4, 1974, 88 Stat. 289; Pub. L. 93–374, Aug. 14, 1974, 88 Stat. 445; Pub. L. 93–425, Sept. 30, 1974, 88 Stat. 1166; Pub. L. 93–450, Oct. 18, 1974, 88 Stat. 1368; Pub. L. 93–646, §9, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95–143, §4, Oct. 26, 1977, 91 Stat. 1211; Pub. L. 95–407, Sept. 30, 1978, 92 Stat. 882; Pub. L. 95–630, title XIX, §1906, Nov. 10, 1978, 92 Stat. 3725; Pub. L. 98–109, §6, Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–143, Nov. 1, 1983, 97 Stat. 916; Pub. L. 98–181, title I [title VI, §611], Nov. 30, 1983, 97 Stat. 1254; Pub. L. 99–472, §14, Oct. 15, 1986, 100 Stat. 1204; renumbered §7 and amended Pub. L. 102–429, title I, §§102, 121(c)(2), Oct. 21, 1992, 106 Stat. 2187, 2199; Pub. L. 105–46, §122, Sept. 30, 1997, 111 Stat. 1158; Pub. L. 105–121, §2(a), Nov. 26, 1997, 111 Stat. 2528; Pub. L. 107–189, §3, June 14, 2002, 116 Stat. 699; Pub. L. 109–438, §2, Dec. 20, 2006, 120 Stat. 3268; Pub. L. 112–122, §2, May 30, 2012, 126 Stat. 350; Pub. L. 114–94, div. E, title LIV, §54001(a), Dec. 4, 2015, 129 Stat. 1768; Pub. L. 116–94, div. I, title IV, §401(a), Dec. 20, 2019, 133 Stat. 3021.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 7 of act July 31, 1945, ch. 341, was renumbered section 6 and is classified to section 635e of this title.

AMENDMENTS

2019—Pub. L. 116–94 substituted "December 31, 2026" for "September 30, 2019".

2015—Pub. L. 114–94 substituted "2019" for "2014".

2012—Pub. L. 112–122 substituted "2014" for "2011".

2006—Pub. L. 109–438 substituted "2011" for "2006".

2002—Pub. L. 107–189 substituted "September 30, 2006" for "September 30, 2001".

1997—Pub. L. 105–121 substituted "September 30, 2001" for "September 30, October 23, 1997".

Pub. L. 105–46 substituted "October 23, 1997" for "1997".

1992—Pub. L. 102–429, §102, substituted "1997" for "1992".

1986—Pub. L. 99–472 substituted "September 30, 1992" for "September 30, 1986".

1983—Pub. L. 98–181 substituted "September 30, 1986" for "November 18, 1983".

Pub. L. 98–143 substituted "November 18, 1983" for "October 31, 1983".

Pub. L. 98–109 substituted "October 31, 1983" for "September 30, 1983".

1978—Pub. L. 95–630 substituted "September 30, 1983" for "December 31, 1978".

Pub. L. 95–407 substituted "December 31, 1978" for "September 30, 1978".

1977—Pub. L. 95–143 substituted "September 30, 1978" for "June 30, 1978".

1975—Pub. L. 93–646 substituted "June 30, 1978" for "November 30, 1974".

1974—Pub. L. 93–450 substituted "November 30, 1974" for "October 15, 1974".

Pub. L. 93–425 substituted "October 15, 1974" for "September 30, 1974".

Pub. L. 93–374 substituted "September 30, 1974" for "July 30, 1974".

Pub. L. 93–331 substituted "July 30, 1974" for "June 30, 1974".

1971—Pub. L. 92–126 substituted "June 30, 1974" for "June 30, 1973" and "Secretary of the Treasury or any other purchasers" for "Secretary of the Treasury".

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States" and substituted "June 30, 1973" for "June 30, 1968".

1963—Pub. L. 88–101 substituted "June 30, 1968" for "June 30, 1963".

1957—Pub. L. 85–55 substituted "June 30, 1963" for "June 30, 1958".

1951—Act Oct. 3, 1951, substituted "June 30, 1958" for "June 30, 1953".

1947—Act June 9, 1947, struck out former section and inserted present section to provide for the termination of the Bank as of June 30, 1953, and its orderly liquidation thereafter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective on June 30, 2015, see section 54001(d) of Pub. L. 114–94, set out as a note under section 635 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–121, §2(b), Nov. 26, 1997, 111 Stat. 2528, provided that: "The amendment made by this section [amending this section] shall take effect on September 30, 1997."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–630 effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as a note under section 635 of this title.

CONTINUATION OF BANK FUNCTIONS

Provisions extending the date that the Export-Import Bank of the United States could continue to exercise its functions in connection with and in furtherance of its objects and purposes notwithstanding the dates specified in this section and section 1(c) of Pub. L. 103–428, set out as an Effective and Termination Dates of 1994 Amendments note under section 635 of this title, were contained in the following acts:

Pub. L. 112–74, div. I, title VI, Dec. 23, 2011, 125 Stat. 1191, extending the date to May 31, 2012.

Pub. L. 107–186, §1, May 30, 2002, 116 Stat. 589, extending the date to June 14, 2002.

Pub. L. 107–168, §1, May 1, 2002, 116 Stat. 131, extending the date to May 31, 2002.

Pub. L. 107–156, §1, Mar. 31, 2002, 116 Stat. 117, extending the date to Apr. 30, 2002.

Pub. L. 107–115, title V, §588, Jan. 10, 2002, 115 Stat. 2174, extending the date to Mar. 31, 2002.

Pub. L. 107–44, §115, as added by Pub. L. 107–48, Oct. 12, 2001, 115 Stat. 261, extending the date to Jan. 10, 2002.

Pub. L. 107–44, §115, Sept. 28, 2001, 115 Stat. 256, extending the date to Oct. 16, 2001, prior to repeal by Pub. L. 107–48, Oct. 12, 2001, 115 Stat. 261.

Termination date for Bank's functions was temporarily extended until the following dates by the acts listed below:

Until Nov. 7, 1997, by Pub. L. 105–64, Oct. 23, 1997, 111 Stat. 1343.

Until Nov. 9, 1997, by Pub. L. 105–68, Nov. 7, 1997, 111 Stat. 1453.

Until Nov. 10, 1997, by Pub. L. 105–69, Nov. 9, 1997, 111 Stat. 1454.

Until Nov. 14, 1997, by Pub. L. 105–71, Nov. 10, 1997, 111 Stat. 1456.

Until Nov. 26, 1997, by Pub. L. 105–84, Nov. 14, 1997, 111 Stat. 1628.

FINANCIAL ASSISTANCE TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Pub. L. 93–450, §1, Oct. 18, 1974, 88 Stat. 1368, provided in part that the Bank shall not authorize any financial assistance to the Union of Soviet Socialist Republics during the life of Pub. L. 93–450, which extended the termination date from Oct. 15, 1974, to Nov. 30, 1974.

§635g. Report to Congress; time for submission; contents

(a) Annual submission of report

The Export-Import Bank of the United States shall transmit to the Congress annually a complete and detailed report of its operations. Such report shall be as of the close of business on the last day of each fiscal year.

(b) Report on allocation of sums set aside for small business exports

(1) The Bank shall include in its annual report to the Congress a report on the allocation of the sums set aside for small business exports pursuant to section 635(b)(1)(E) of this title.

(2) Such report shall specify—

- (A) the total number and dollar volume of loans made from the sums set aside;
- (B) the number and dollar volume of loans made through the consortia program under section 635(b)(1)(E)(vii) of this title;
- (C) the amount of guarantees and insurance provided for small business exports;
- (D) the number of recipients of financing from the sums set aside who have not previously participated in the Bank's programs;
- (E) the number of commitments entered into in amounts less than \$500,000; and
- (F) any recommendations for increasing the participation of banks and other institutions in the programs authorized under section 635(b)(1)(E) of this title.

(3) For the purpose of this subsection, the Bank's report shall be transmitted to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives.

(c) Technology to assist small businesses

The Bank shall include in its annual report to the Congress under subsection (a) of this section for each of fiscal years 2002 through 2006 a report on the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of section 635(b)(1) of this title, and on how the efforts are assisting small business concerns (as defined in section 632(a) of title 15).

(d) Number of small business suppliers of Bank users

The Bank shall estimate on the basis of an annual survey or tabulation the number of entities that are suppliers of users of the Bank and that are small business concerns (as defined in section 632(a) of title 15) located in the United States, and shall include the estimate in its annual report to the Congress under subsection (a) of this section.

(e) Outreach to certain small businesses

The Bank shall include in its annual report to the Congress under subsection (a) of this section a description of outreach efforts made by the Bank to any socially and economically disadvantaged small business concerns (as defined in section 637(a)(4) of title 15), small business concerns (as defined in section 632(a) of title 15) owned by women, and small business concerns (as defined in section 632(a) of title 15) employing fewer than 100 employees.

(f) Additional reports

Not later than March 31 of each year, the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate reports on—

- (1) the extent to which the Bank has been able to use the authority provided, and has complied with the mandates contained, in section 635(b)(1)(E) of this title, and to the extent the Bank has been unable to fully use such authority and comply with such mandates, a report on the reasons for the Bank's inability to do so and the steps the Bank is taking to remedy such inability;
- (2) the extent to which financing has been made available to small business concerns (described in subsection (e)) to enable them to participate in exports by major contractors, including through access to the supply chains of the contractors through direct or indirect funding;
- (3) the specific measures the Bank will take in the upcoming year to achieve the small business objectives of the Bank, including expanded outreach, product improvements, and related actions;
- (4) the progress made by the Bank in supporting exports by socially and economically

disadvantaged small business concerns (defined in section 637(a)(4) of title 15) and small business concerns (as defined in section 632(a) of title 15) owned by women, including estimates of the amounts made available to finance exports directly by such small business concerns, a comparison of these amounts with the amounts made available to all small business concerns, and a comparison of such amounts with the amounts so made available during the 2 preceding years;

(5) with respect to each type of transaction, the interest and fees charged by the Bank to exporters (including a description of fees and interest, if any, charged to small business concerns), buyers, and other applicants in connection with each financing program of the Bank, and the highest, lowest, and average fees charged by the Bank for short term insurance transactions;

(6) the effects of the fees on the ability of the Bank to achieve the objectives of the Bank relating to small business;

(7) the fee structure of the Bank as compared with those of foreign export credit agencies; and

(8)(A) the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of section 635(b)(1) of this title, including the total amount expended by the Bank to do so; and

(B) if the Bank has been unable to comply with such subparagraphs—

(i) an analysis of the reasons therefor; and

(ii) what the Bank is doing to achieve, and the date by which the Bank expects to have achieved, such compliance.

(g) Monitoring of default rates on bank financing; reports on default rates; safety and soundness review

(1) Monitoring of default rates

Not less frequently than quarterly, the Bank shall calculate the rate at which the entities to which the Bank has provided short-, medium-, or long-term financing are in default on a payment obligation under the financing, by dividing the total amount of the required payments that are overdue by the total amount of the financing involved.

(2) Additional calculation by type of product, by key market, and by industry sector; report to Congress

In addition, the Bank shall, not less frequently than quarterly—

(A) calculate the rate of default—

(i) with respect to whether the products involved are short-term loans, medium-term loans, long-term loans, insurance, medium-term guarantees, or long-term guarantees;

(ii) with respect to each key market involved; and

(iii) with respect to each industry sector involved; and

(B) submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on each such rate and any information the Bank deems relevant.

(3) Report on causes of default rate; plan to reduce default rate

Within 45 days after a rate calculated under paragraph (1) equals or exceeds 2 percent, the Bank shall submit to the Congress a written report that explains the circumstances that have caused the default rate to be at least 2 percent, and includes a plan to reduce the default rate to less than 2 percent.

(4) Plan contents

The plan referred to in paragraph (3) shall—

(A) provide a detailed explanation of the processes and controls by which the Bank monitors and tracks outstanding loans;

(B) detail specific planned actions, including a time frame for completing the actions, to reduce the default rate described in paragraph (1) to less than 2 percent.

(5) Monthly reports required while default rate is at least 2 percent

For so long as the default rate calculated under paragraph (1) is at least 2 percent, the Bank shall

submit monthly reports to the Congress describing the specific actions taken during such period to reduce the default rate.

(6) Safety and soundness review

If the default rate calculated under paragraph (1) remains above 2 percent for a period of 6 months, the Secretary of the Treasury shall provide for an independent third party to—

- (A) conduct a review of the loan programs and funds of the Bank, which shall determine—
 - (i) the financial safety and soundness of the programs and funds; and
 - (ii) the extent of loan loss reserves and capital adequacy of the programs and funds; and

(B) submit to the Secretary, within 60 days after the end of the 6-month period, a report that—

- (i) describes the methodology and standards used to conduct the review required by subparagraph (A);
- (ii) sets forth the results and findings of the review, including the extent of loan loss reserves and capital adequacy of the programs and funds of the Bank; and
- (iii) includes recommendations regarding restoring the reserves and capital to maintain the programs and funds in a safe and sound condition.

(h) Categorization of purpose of loans and long-term guarantees

In the annual report of the Bank under subsection (a), the Bank shall categorize each loan and long-term guarantee made by the Bank in the fiscal year covered by the report, and according to the following purposes:

- (1) "To assume commercial or political risk that exporter or private financial institutions are unwilling or unable to undertake".
- (2) "To overcome maturity or other limitations in private sector export financing".
- (3) "To meet competition from a foreign, officially sponsored, export credit competition".
- (4) "Not identified", and the reason why the purpose is not identified.

(i) Access to Bank products by the textile industry

The Bank shall include in its annual report to the Congress under subsection (a) of this section a report on the determinations made by the Advisory Committee under section 635a(d)(5) of this title in the year covered by the report.

(j) Textile and apparel supply chain financing

The Bank shall include in its annual report to the Congress under subsection (a) of this section a description of the success of the Bank in providing effective and reasonably priced financing to the United States textile and apparel industry for exports of goods manufactured in the United States that are used as components in global textile and apparel supply chains in the year covered by the report, and steps the Bank has taken to increase the use of Bank products by such firms.

(k) Report on programs for small- and medium-sized businesses

The Bank shall include in its annual report to Congress under subsection (a) a report on the programs of the Bank for United States businesses with less than \$250,000,000 in annual sales.

(l) Report on authorizations under the Program on China and Transformational Exports

The Bank shall include in its annual report to Congress under subsection (a) a narrative and financial summary of the authorizations made under the Program on China and Transformational Exports.

(July 31, 1945, ch. 341, §8, formerly §9, 59 Stat. 529; Pub. L. 90-267, §1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 93-646, §10, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95-630, title XIX, §1907(b), Nov. 10, 1978, 92 Stat. 3725; Pub. L. 98-181, title I [title VI, §§618(b), 623], Nov. 30, 1983, 97 Stat. 1259, 1262; Pub. L. 99-472, §20(b), (c), Oct. 15, 1986, 100 Stat. 1209, 1210; renumbered §8, Pub. L. 102-429, title I, §121(c)(2), Oct. 21, 1992, 106 Stat. 2199; Pub. L. 106-569, title XI, §1104(a)(4), Dec. 27, 2000, 114 Stat. 3032; Pub. L. 107-189, §12, June 14, 2002, 116 Stat. 704; Pub. L. 109-438,

§20, Dec. 20, 2006, 120 Stat. 3282; Pub. L. 112–122, §§6, 10, 20(b)(2), 21(c), May 30, 2012, 126 Stat. 353, 356, 362, 363; Pub. L. 114–94, div. E, title LII, §52002(a), Dec. 4, 2015, 129 Stat. 1767; Pub. L. 116–94, div. I, title IV, §402(b), Dec. 20, 2019, 133 Stat. 3023.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 8 of act July 31, 1945, ch. 341, was renumbered section 7 and is classified to section 635f of this title.

AMENDMENTS

2019—Subsec. (l). Pub. L. 116–94 added subsec. (l).

2015—Subsec. (k). Pub. L. 114–94 added subsec. (k).

2012—Subsec. (g). Pub. L. 112–122, §6, added subsec. (g).

Subsec. (h). Pub. L. 112–122, §10, added subsec. (h).

Subsec. (i). Pub. L. 112–122, §20(b)(2), added subsec. (i).

Subsec. (j). Pub. L. 112–122, §21(c), added subsec. (j).

2006—Subsec. (f). Pub. L. 109–438 added subsec. (f).

2002—Subsecs. (c) to (e). Pub. L. 107–189 added subsecs. (c) to (e).

2000—Subsec. (b). Pub. L. 106–569 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "The report shall contain a description of actions taken by the Bank in pursuance of the policy of aiding, counseling, assisting, and protecting, insofar as is possible, the interests of small business concerns and of the activities of the member of the Board appointed to represent the interest of small business. In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 3261 of title 22, and section 2151q of title 22, as required by section 635(b)(1)(C) of this title."

Subsec. (c). Pub. L. 106–569 redesignated subsec. (c) as (b) and directed redesignation of subsec. (e) as (c).

Subsec. (d). Pub. L. 106–569 struck out subsec. (d) which required report to include actions taken by Bank to aid industries, preserve and create highly skilled jobs, and enhance opportunity for business growth and expansion and comments of Advisory Committee.

Subsec. (e). Pub. L. 106–569, which directed redesignation of subsec. (e) as (c), could not be executed. See 1986 Amendment note and Termination Date of 1986 Amendment note below.

1986—Subsec. (e). Pub. L. 99–472 temporarily added subsec. (e). See Termination Date of 1986 Amendment note below.

1983—Subsec. (b). Pub. L. 98–181, §618(b)(1), inserted "and of the activities of the member of the Board appointed to represent the interests of small business".

Subsec. (c). Pub. L. 98–181, §618(b)(2), added subsec. (c).

Subsec. (d). Pub. L. 98–181, §623, added subsec. (d).

1978—Subsec. (b). Pub. L. 95–630 inserted provision that in addition, the Bank include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 3261 of title 22, and section 2151q of title 22, as required by section 635(b)(1)(C) of this title.

1975—Pub. L. 93–646 designated existing provisions as subsec. (a), substituted provisions calling for an annual report as of the close of business on the last day of each fiscal year, for provisions calling for a semiannual report as of the close of business on June 30 and Dec. 31 of each year, and added subsec. (b).

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Small Business of Senate changed to Committee on Small Business and Entrepreneurship of Senate. See Senate Resolution No. 123, One Hundred Seventh Congress, June 29, 2001.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–94, div. E, title LII, §52002(b), Dec. 4, 2015, 129 Stat. 1767, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to the report of the Export-Import Bank of the United States submitted to Congress under section 8 of the Export-Import Bank Act of 1945 (12

U.S.C. 635g) for the first year that begins after the date of the enactment of this Act [Dec. 4, 2015]."

TERMINATION DATE OF 1986 AMENDMENT

Pub. L. 99-472, §20(c), Oct. 15, 1986, 100 Stat. 1210, provided that: "Effective March 2, 1988, the amendment made by subsection (b) [amending this section] is repealed."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective Nov. 10, 1978, see section 1917 of Pub. L. 95-630, set out as a note under section 635 of this title.

REPORTS

Pub. L. 107-189, §8(c), June 14, 2002, 116 Stat. 701, provided that: "The Export-Import Bank of the United States shall include in the annual report required by section 8(a) of the Export-Import Bank Act of 1945 [12 U.S.C. 635g(a)] for each of fiscal years 2002 through 2006 a report on the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of section 2(b)(1) of such Act [12 U.S.C. 635(b)(1)], and on how the efforts are assisting small businesses."

FINANCING FOR RENEWABLE ENERGY PROJECTS

Pub. L. 101-167, title V, §534(d), Nov. 21, 1989, 103 Stat. 1231, provided that:

"(1) Of the financing provided by the Export-Import Bank that is utilized for the support of exports for the energy sector, the Bank shall seek to provide not less than 5 per centum of such financing for renewable energy projects.

"(2) The Export-Import Bank shall take all appropriate steps to finance information exchanges and training whose purpose it is to help link United States producers in the renewable energy sector with assistance programs and potential foreign customers.

"(3) Beginning on April 15, 1990, the Chairman of the Export-Import Bank shall submit an annual report to the Committees on Appropriations on the Bank's implementation of this subsection."

MODIFICATION OF REPORTING REQUIREMENTS

Pub. L. 89-348, §2(9), Nov. 8, 1965, 79 Stat. 1312, modified the reporting requirements of this section as follows: "From semiannual to annual submission to the Congress by the Export-Import Bank of Washington of a report concerning its operations under the Export-Import Bank Act of 1945 (59 Stat. 529; 12 U.S.C. 635g)." This section was later amended by Pub. L. 93-646 to require annual instead of semiannual reports.

§635g-1. Annual competitiveness report

(a) In general

Not later than June 30 of each year, the Bank shall submit to the appropriate congressional committees a report that includes the following:

(1) Actions of Bank in providing financing on a competitive basis, and to minimize competition in government-supported export financing

A description of the actions of the Bank in complying with the second and third sentences of section 635(b)(1)(A) of this title. In this part of the report, the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters (including through use of market windows (as defined pursuant to section 635i-3(h)(7) of this title)) and, to the extent such information is available to the Bank, indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. With respect to the preceding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from each such government and government-related agency. In this part of the report, the Bank shall include a survey of a representative number of United States exporters and United States commercial lending institutions which provide export credit on the experience of the exporters and institutions in meeting financial competition from other countries whose exporters compete with United States exporters.

(2) Role of Bank in implementing strategic plan prepared by the Trade Promotion Coordinating Committee

A description of the role of the Bank in implementing the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 4727 of title 15.

(3) Tied aid credit program and fund

The report required by section 635i-3(g) of this title.

(4) Purpose of all Bank transactions

A description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support.

(5) Efforts of Bank to promote export of goods and services related to renewable energy sources

A description of the activities of the Bank with respect to financing renewable energy projects undertaken under section 635(b)(1)(K) of this title, and an analysis comparing the level of credit extended by the Bank for renewable energy projects with the level of credit so extended for the preceding fiscal year.

(6) Size of Bank program account

A separate section which—

(A) compares, to the extent practicable, the size of the Bank program account with the size of the program accounts of the other major export-financing facilities referred to in paragraph (1); and

(B) makes recommendations, if appropriate, with respect to the relative size of the Bank program account, based on factors including whether the size differences are in the best interests of the United States taxpayer.

(7) Co-financing programs of the Bank and of other export credit agencies

A description of the co-financing programs of the Bank and of the other major export-financing facilities referred to in paragraph (1), which includes a list of countries with which the United States has in effect a memorandum of understanding relating to export credit agency co-financing and, if such a memorandum is not in effect with any country with a major export credit-financing facility, an explanation of why such a memorandum is not in effect.

(8) Services supported by the Bank and by other export credit agencies

A separate section which describes the participation of the Bank in providing funding, guarantees, or insurance for services, which shall include appropriate information on the involvement of the other major export-financing facilities referred to in paragraph (1) in providing such support for services, and an explanation of any differences among the facilities in providing the support.

(9) Export finance cases not in compliance with the arrangement

Detailed information on cases reported to the Bank of export financing that appear not to comply with the Arrangement (as defined in section 635i-3(h)(3) of this title) or that appear to exploit loopholes in the Arrangement for the purpose of obtaining a commercial competitive advantage. The President of the Bank, in consultation with the Secretary of the Treasury, may provide to the appropriate congressional committees the information required by this subsection in a separate and confidential report, instead of providing such information in the report required by this subsection.

(10) Foreign export credit agency activities not consistent with the WTO agreement on subsidies and countervailing measures

A description of the extent to which the activities of foreign export credit agencies and other entities sponsored by a foreign government, particularly those that are not members of the Arrangement (as defined in section 635i-3(h)(3) of this title), appear not to comply with the

Arrangement and appear to be inconsistent with the terms of the Agreement on Subsidies and Countervailing Measures referred to in section 3511(d)(12) of title 19, and a description of the actions taken by the United States Government to address the activities. The President of the Bank, in consultation with the Secretary of the Treasury, may provide to the appropriate congressional committees, the information required by this subsection in a separate and confidential report, instead of providing such information in the report required by this subsection.

(b) Inclusion of additional comments

The report required by subsection (a) shall include such additional comments as any member of the Board of Directors may submit to the Board for inclusion in the report.

(c) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(July 31, 1945, ch. 341, §8A, as added Pub. L. 109–438, §13(a), Dec. 20, 2006, 120 Stat. 3277.)

§635h. Exemption from prohibition of section 955 of title 18

Notwithstanding the provisions of section 955 of title 18, any person, including any individual, partnership, corporation, or association, may act for or participate with the Export-Import Bank of the United States in any operation or transaction, or may acquire any obligation issued in connection with any operation or transaction, engaged in by the Bank.

(July 31, 1945, ch. 341, §9, formerly §11, 59 Stat. 529; Sept. 3, 1954, ch. 1263, §29, 68 Stat. 1237; Pub. L. 90–267, §1(a), Mar. 13, 1968, 82 Stat. 47; renumbered §9, Pub. L. 102–429, title I, §121(c)(3), Oct. 21, 1992, 106 Stat. 2199.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 9 of act July 31, 1945, ch. 341, was renumbered section 8 and is classified to section 635g of this title.

AMENDMENTS

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

1954—Act Sept. 3, 1954, substituted "section 955 of title 18" for "section 804a of title 31".

§§635i to 635i–2. Repealed. Pub. L. 102–429, title I, §121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section 635i, act July 31, 1945, ch. 341, §12, as added June 9, 1947, ch. 101, §4, 61 Stat. 131; amended Mar. 13, 1968, Pub. L. 90–267, §1(a), 82 Stat. 47, related to assumption of rights and liabilities of existing Bank by Export-Import Bank of the United States including transfer of funds, property, personnel, etc.

Section 635i–1, act July 31, 1945, ch. 341, §13, as added Nov. 30, 1983, Pub. L. 98–181, title I [title VI, §619(a)], 97 Stat. 1260, related to establishment of special facilities in support of export transactions to Brazil and Mexico.

Section 635i–2, act July 31, 1945, ch. 341, §14, as added Nov. 30, 1983, Pub. L. 98–181, title I [title VI, §621], 97 Stat. 1261, related to notification to Congress of decrease in capital level of Bank.

§635i–3. Tied Aid Credit Fund and program

(a) Findings

The Congress finds that—

(1) tied aid and partially untied aid credits offered by other countries are a predatory method of financing exports because of their market-distorting effects;

(2) these distortions have caused the United States to lose export sales, with resulting losses in economic growth and employment;

(3) these practices undermine market mechanisms that would otherwise result in export purchase decisions made on the basis of price, quality, delivery, and other factors directly related to the export, where official financing is not subsidized and would be a neutral factor in the transaction;

(4) support of commercial exports by donor countries with tied aid and partially untied aid credits impedes the growth of developing countries because it diverts development assistance funds from essential developmental purposes;

(5) the Bank has, at a minimum, the following two tasks—

(A)(i) first, the Bank should match foreign export credit agencies and aid agencies when they engage in tied aid outside the confines of the Arrangement and when they exploit loopholes, such as untied aid;

(ii) such matching is needed to provide the United States with leverage in efforts at the OECD to reduce the overall level of export subsidies;

(iii) only through matching foreign export credit offers can the Bank buttress United States negotiators in their efforts to bring these loopholes within the disciplines of the Arrangement; and

(iv) in order to bring untied aid within the discipline of the Arrangement, the Bank should consider initiating highly competitive financial support when the Bank learns that foreign untied aid offers will be made; and

(B) second, the Bank should support United States exporters when the exporters face foreign competition that is consistent with the Arrangement and the Subsidies Code of the World Trade Organization, but which places United States exporters at a competitive disadvantage; and

(6) there should be established in the Bank a tied aid program to target the export markets of those countries, including those that are not a party to the Arrangement, which make extensive use of tied aid or partially untied aid credits, or untied aid used to promote exports as if it were tied aid, for commercial advantage for the purposes of—

(A) enforcing compliance with the existing Arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes; and

(B) facilitating efforts to negotiate, establish, and enforce new or revised comprehensive international arrangements effectively restricting the use of tied aid and partially untied aid credits, or untied aid used to promote exports as if it were tied aid, for commercial purposes; and

(C) promoting compliance with Arrangement rules among foreign export credit agencies that are not a party to the Arrangement;

and such program should be used aggressively for such purposes.

(b) Establishment of tied aid credit program

(1) In general

The Bank shall establish a tied aid credit program under which grants shall be made from funds available in the Tied Aid Credit Fund established under subsection (c)—

(A) to supplement the financing of a United States export when there is a reasonable expectation that predatory financing will be provided by another country for a sale by a competitor of the United States exporter with respect to such export and with special attention to matching tied aid and partially untied aid credits extended by other governments—

(i) in violation of the Arrangement; or

(ii) in cases in which the Bank determines that United States trade or economic interests

justify the matching of tied aid credits extended in compliance with the Arrangement, including grandfathered cases;

(B) to supplement the financing of United States exports to foreign markets which are actual or potential export markets for any country which the Bank determines—

(i) engages in predatory official export financing through the use of tied aid or partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or

(ii) engages in predatory financing practices that seek to circumvent international agreements on tied aid; or

(C) to supplement the financing of United States exports under such other circumstances as the Bank may determine to be appropriate for carrying out the purposes of this section.

(2) Administration of program

The tied aid credit program shall be administered by the Bank—

(A) in consultation with the Secretary and in accordance with the principles, process, and standards developed pursuant to paragraph (5) of this subsection and the purposes described in subsection (a)(5);

(B) in cooperation with United States exporters and private financial institutions or entities, and in consultation with other Federal agencies, as appropriate; and

(C) in consultation with the National Advisory Council on International Monetary and Financial Policies.

(3) Coordination with other export financing

Under the tied aid credit program, the Bank may combine grants from the Tied Aid Credit Fund with—

(A) any guarantee, insurance, or other extension of credit provided by the Bank under this subchapter;

(B) any export financing provided by any private financial institution or other entity; and

(C) any other type of export financing,

in such manner and under such terms as the Bank determines to be appropriate, including combinations of export financing in the form of blended financing and parallel financing.

(4) Information on countries which engage in official predatory export financing and impede negotiations

In order to assist the Bank to make the most efficient use of funds available for supplemental financing under paragraph (1)(B), the United States Trade Representative and the Secretary of Commerce may provide information on principal sectors and key markets of countries described in paragraph (1)(B) to the Bank, the Secretary, and the National Advisory Council on International Monetary and Financial Policies. The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B).

(5) Principles, process, and standards governing use of the Fund

(A) In general

The Secretary and the Bank jointly shall develop a process for, and the principles and standards to be used in, determining how the amounts in the Tied Aid Credit Fund could be used most effectively and efficiently to carry out the purposes of subsection (a)(6).

(B) Content of principles, process, and standards

(i) Consideration of certain principles and standards

In developing the principles and standards referred to in subparagraph (A), the Secretary

and the Bank shall consider administering the Tied Aid Credit Fund in accordance with the following principles and standards:

(I) The Tied Aid Credit Fund should be used to leverage multilateral negotiations to restrict the scope for aid-financed trade distortions through new multilateral rules, to police existing rules, and to seek compliance by those countries that are not a party to the Arrangement.

(II) The Tied Aid Credit Fund will be used to counter a foreign tied aid credit confronted by a United States exporter when bidding for a capital project.

(III) Credible information about an offer of foreign tied aid will be required before the Tied Aid Credit Fund is used to offer specific terms to match such an offer. In cases where information about a specific offer of foreign tied aid (or untied aid used to promote exports as if it were tied aid) is not available in a timely manner, or is unavailable because the foreign export credit agency involved is not subject to the reporting requirements under the Arrangement, then the Bank may decide to use the Tied Aid Credit Fund based on credible evidence of a history of such offers under similar circumstances or other forms of credible evidence.

(IV) The Tied Aid Credit Fund will be used to enable a competitive United States exporter to pursue further market opportunities on commercial terms made possible by the use of the Fund.

(V) Each use of the Tied Aid Credit Fund will be in accordance with the Arrangement unless a breach of the Arrangement has been committed by a foreign export credit agency.

(VI) The Tied Aid Credit Fund may only be used to defend potential sales by United States companies to a project that is environmentally sound.

(VII) The Tied Aid Credit Fund may be used to preemptively counter potential foreign tied aid offers without triggering foreign tied aid use.

(ii) Process

In handling individual applications involving the use or potential use of the Tied Aid Credit Fund the following process shall exclusively apply pursuant to subparagraph (A):

(I) The Bank shall process an application for tied aid in accordance with the principles and standards developed pursuant to subparagraph (A) and clause (i) of this subparagraph.

(II) Twenty days prior to the scheduled meeting of the Board of Directors at which an application will be considered (unless the Bank determines that an earlier discussion is appropriate based on the facts of a particular financing), the Bank shall brief the Secretary on the application and deliver to the Secretary such documents, information, or data as may reasonably be necessary to permit the Secretary to review the application to determine if the application complies with the principles and standards developed pursuant to subparagraph (A) and clause (i) of this subparagraph.

(III) The Secretary may request a single postponement of the consideration by the Board of Directors of the application for up to 14 days to allow the Secretary to submit to the Board of Directors a memorandum objecting to the application.

(IV) Case-by-case decisions on whether to approve the use of the Tied Aid Credit Fund shall be made by the Board of Directors, except that the approval of the Board of Directors (or a commitment letter based on that approval) shall not become final (except as provided in subclause (V)), if the Secretary indicates to the President of the Bank in writing the Secretary's intention to appeal the decision of the Board of Directors to the President of the United States and makes the appeal in writing not later than 20 days after the meeting at which the Board of Directors considered the application.

(V) The Bank shall not grant final approval of an application for any tied aid credit (or a commitment letter based on that approval) if the President of the United States, after consulting with the President of the Bank and the Secretary, determines within 30 days of an appeal by the Secretary under subclause (IV) that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6). If no such Presidential determination is made during the 30-day period, the approval by the Bank of

the application (or related commitment letter) that was the subject of such appeal shall become final.

(C) Initial principles, process, and standards

As soon as is practicable but not later than 6 months after June 14, 2002, the Secretary and the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards developed pursuant to subparagraph (A).

(D) Transitional principles and standards

The principles and standards set forth in subparagraph (B)(i) shall govern the use of the Tied Aid Credit Fund until the principles, process, and standards required by subparagraph (C) are submitted.

(E) Update and revision

The Secretary and the Bank jointly should update and revise, as needed, the principles, process, and standards developed pursuant to subparagraph (A), and, on doing so, shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards so updated and revised.

(6) Reconsideration of decisions

(A) In general

Taking into consideration the time sensitivity of transactions, the Board of Directors of the Bank shall expeditiously pursuant to paragraph (2) reconsider a decision of the Board to deny an application for the use of the Tied Aid Credit Fund if the applicant submits the request for reconsideration within 3 months of the denial.

(B) Procedural rules

In any such reconsideration, the applicant may be required to provide new information on the application.

(c) Tied Aid Credit Fund

(1) In general

There is hereby established within the Bank a fund to be known as the "Tied Aid Credit Fund" (hereinafter in this section referred to as the "Fund"), consisting of such amounts as may be appropriated to the Fund pursuant to the authorization contained in subsection (e).

(2) Expenditures from Fund

Amounts in the Fund shall be available for grants made by the Bank under the tied aid credit program established pursuant to subsection (b) and to reimburse the Bank for the amount equal to the concessionality level of any tied aid credits authorized by the Bank.

(d) Consistency with Arrangement

Any export financing involving the use of a grant under the tied aid credit program shall be consistent with the procedures established by the Arrangement, as in effect at the time such financing is approved.

(e) Authorization

There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of this section. Such sums are authorized to remain available until expended.

(f) Nonreviewability

No action taken under this section shall be reviewable by any court, except for abuse of discretion.

(g) Report to Congress

(1) In general

The Bank, in consultation with the Secretary, shall submit an annual report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) Contents of reports

Each report required under paragraph (1) shall contain a description of—

(A) the implementation of the Arrangement restricting tied aid and partially untied aid credits for commercial purposes, including the operation of notification and consultation procedures;

(B) all principal offers of tied aid credit financing by foreign countries during the previous 6-month period, including all offers notified by countries participating in the Arrangement, and in particular—

- (i) offers grandfathered under the Arrangement; and
- (ii) notifications of exceptions under the Arrangement;

(C) any use by the Bank of the Tied Aid Credit Fund to match specific offers, including those that are grandfathered or exceptions under the Arrangement; and

(D) other actions by the United States Government to combat predatory financing practices by foreign governments, including additional negotiations among participating governments in the Arrangement.

(3) Confidential information

To the extent the Bank determines any information required to be included in the report under this subsection should not be made public, such information may be submitted separately on a confidential basis or provided orally, rather than in written form, to the Chairmen and ranking minority Members of the Committees of the Senate and the House of Representatives with jurisdiction over the subject matter of the report.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Tied aid and partially untied aid credit

The terms "tied aid credit" and "partially untied aid credit" mean any credit which—

(A) has a grant element greater than zero percent, as determined by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(B) is, in fact or in effect, tied to—

(i) the procurement of goods or services from the donor country, in the case of tied aid credit; or

(ii) the procurement of goods or services from a restricted number of countries, in the case of partially untied aid credit; and

(C) is financed either exclusively from public funds or partly from public and partly from private funds.

(2) Secretary

The term "Secretary" means the Secretary of the Treasury.

(3) Arrangement

The term "Arrangement" means the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development.

(4) Blended financing

The term "blended financing" means financing provided through any combination of official development assistance, official export credits, and private commercial credit which is integrated into a single agreement with a single set of financial terms.

(5) Parallel financing

The term "parallel financing" means financing provided by any combination of official

development assistance, official export credits, and private commercial credit which is not integrated into a single agreement and does not have a single set of financial terms.

(6) Offers grandfathered under the Arrangement

The term "offers grandfathered under the Arrangement" means—

- (A) financing offers made or lines of credit extended on or before February 15, 1992; or
- (B) financing offers extended for subloans under lines of credit referred to in subparagraph (A) made on or before August 15, 1992, or, in the case of Mexico, on or before December 31, 1992.

(7) Market window

The Bank, in consultation with the Secretary of the Treasury, shall define "market window" for purposes of this section.

(July 31, 1945, ch. 341, §10, formerly §15, as added Pub. L. 99–472, §19, Oct. 15, 1986, 100 Stat. 1205; amended Pub. L. 100–217, Dec. 29, 1987, 101 Stat. 1454; Pub. L. 100–418, title III, §3302(b), Aug. 23, 1988, 102 Stat. 1383; Pub. L. 101–240, title I, §101(b), Dec. 19, 1989, 103 Stat. 2493; Pub. L. 101–513, title V, §562(d), Nov. 5, 1990, 104 Stat. 2036; renumbered §10 and amended Pub. L. 102–429, title I, §§103, 121(c)(4), Oct. 21, 1992, 106 Stat. 2187, 2199; Pub. L. 104–97, §1, Jan. 11, 1996, 109 Stat. 984; Pub. L. 104–107, title V, §579, Feb. 12, 1996, 110 Stat. 751; Pub. L. 105–121, §3, Nov. 26, 1997, 111 Stat. 2528; Pub. L. 106–569, title XI, §1103(d)(2), Dec. 27, 2000, 114 Stat. 3031; Pub. L. 107–189, §§9, 10(c), (d), 24(a)(2)(E), June 14, 2002, 116 Stat. 701, 703, 704, 708; Pub. L. 109–438, §10, Dec. 20, 2006, 120 Stat. 3275.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 10 of act July 31, 1945, ch. 341, repealed section 713b of Title 15, Commerce and Trade.

AMENDMENTS

2006—Subsec. (a)(6). Pub. L. 109–438, §10(b)(1)(A), inserted ", including those that are not a party to the Arrangement," after "countries" in introductory provisions.

Subsec. (a)(6)(C). Pub. L. 109–438, §10(b)(1)(B), (C), added subpar. (C).

Subsec. (b)(5)(B)(i)(I). Pub. L. 109–438, §10(b)(2)(A)(i), struck out "and" after "multilateral rules," and inserted ", and to seek compliance by those countries that are not a party to the Arrangement" before period.

Subsec. (b)(5)(B)(i)(III). Pub. L. 109–438, §10(b)(2)(A)(ii), inserted at end "In cases where information about a specific offer of foreign tied aid (or untied aid used to promote exports as if it were tied aid) is not available in a timely manner, or is unavailable because the foreign export credit agency involved is not subject to the reporting requirements under the Arrangement, then the Bank may decide to use the Tied Aid Credit Fund based on credible evidence of a history of such offers under similar circumstances or other forms of credible evidence."

Subsec. (b)(5)(B)(ii). Pub. L. 109–438, §10(a), amended cl. (ii) heading and text generally. Prior to amendment, text read as follows: "Once the principles, process and standards referred to in subparagraph (A) are followed, the final case-by-case decisions on the use of the Tied Aid Credit Fund shall be made by the Bank: *Provided however*, That the Bank shall not approve the extension of a proposed tied aid credit if the President of the United States determines, after consulting with the President of the Bank and the Secretary of the Treasury, that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6) of this section."

2002—Subsec. (a)(4). Pub. L. 107–189, §10(c)(1), struck out "and" at end.

Subsec. (a)(5). Pub. L. 107–189, §10(c)(3), added par. (5). Former par. (5) redesignated (6).

Pub. L. 107–189, §10(c)(2), inserted ", or untied aid used to promote exports as if it were tied aid," before "for commercial" in introductory provisions and in subpar. (B).

Subsec. (a)(6). Pub. L. 107–189, §10(c)(3), redesignated par. (5) as (6).

Subsec. (b)(2)(A). Pub. L. 107–189, §9(a)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "in consultation with the Secretary and in accordance with the Secretary's recommendations on how such credits could be used most effectively and efficiently to carry out the purposes described in subsection (a)(5) of this section;".

Subsec. (b)(5). Pub. L. 107-189, §9(a)(2), added par. (5).

Subsec. (b)(6). Pub. L. 107-189, §9(b), added par. (6).

Subsec. (g)(1). Pub. L. 107-189, §24(a)(2)(E), substituted "Committee on Financial Services of the House of Representatives" for "Committee on Banking, Finance and Urban Affairs of the House of Representatives".

Subsec. (h)(7). Pub. L. 107-189, §10(d), added par. (7).

2000—Subsec. (g)(1). Pub. L. 106-569 substituted "The Bank" for "On or before October 15, 1992, and every 6 months thereafter, the Bank" and "submit an annual report" for "submit a report".

1997—Subsec. (c)(2). Pub. L. 105-121, §3(a), struck out "through September 30, 1997" after "authorized by the Bank".

Subsec. (e). Pub. L. 105-121, §3(b), amended first sentence generally. Prior to amendment first sentence read as follows: "There are authorized to be appropriated to the Fund such sums as may be necessary for each of fiscal years 1996 and 1997."

1996—Subsec. (c)(2). Pub. L. 104-107, §579(a), which directed substitution of "1997" for "1995", could not be executed because "1995" does not appear in text after amendment by Pub. L. 104-97. See below.

Pub. L. 104-97, §1(a), substituted "1997" for "1995".

Subsec. (e). Pub. L. 104-107, §579(b), which directed substitution of "1996 and 1997" for "1993, 1994, and 1995", could not be executed because that language does not appear in text after general amendment by Pub. L. 104-97. See below.

Pub. L. 104-97, §1(b), substituted "There are authorized to be appropriated to the Fund such sums as may be necessary for each of fiscal years 1996 and 1997." for "There are authorized to be appropriated to the Fund \$500,000,000 for each of fiscal years 1993, 1994, and 1995."

1992—Subsec. (a). Pub. L. 102-429, §103(c)(1), (2), substituted "predatory" for "predacious" in par. (1), struck out "temporary" before "tied aid program" in introductory provisions of par. (5), and substituted "existing Arrangement" for "existing arrangement" in par. (5)(A).

Subsec. (b)(1). Pub. L. 102-429, §103(c)(3)(A), substituted "The" for "To carry out the purposes of subsection (a)(5) of this section, the".

Subsec. (b)(1)(A). Pub. L. 102-429, §103(c)(1), (3)(B), substituted "predatory" for "predacious" and inserted before semicolon "and with special attention to matching tied aid and partially untied aid credits extended by other governments—" followed by cls. (i) and (ii).

Subsec. (b)(1)(B). Pub. L. 102-429, §103(c)(1), (3)(C), in cl. (i) substituted "predatory" for "predacious" and "partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or" for "partially untied aid credits; and", added cl. (ii), and struck out former cl. (ii) which read as follows: "impedes negotiations to eliminate the use of such credits for commercial purposes; or".

Subsec. (b)(2). Pub. L. 102-429, §103(c)(4), (5), struck out "of the Treasury" after "Secretary" in subpar. (A) and substituted "United States exporters and private financial institutions or entities, and in consultation with other Federal agencies" for "private financial institutions or entities" in subpar. (B).

Subsec. (b)(4). Pub. L. 102-429, §103(c)(6), inserted at end "The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B)."

Subsec. (c)(2). Pub. L. 102-429, §103(a), substituted "September 30, 1995" for "fiscal year 1992".

Subsec. (e). Pub. L. 102-429, §103(b), amended subsec. (e) generally, substituting present provisions for provisions which authorized appropriations for fiscal years 1987 through 1992 and provided authority for Presidential rescission.

Subsec. (g)(1). Pub. L. 102-429, §103(c)(7), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "REPORT REQUIRED.—Before the end of the 6-month period beginning on October 15, 1986, and every six months thereafter, the Bank, in consultation with the Secretary, shall prepare and transmit a report on tied aid credits to the President of the Senate and the Speaker of the House of Representatives."

Subsec. (g)(2). Pub. L. 102-429, §103(c)(7), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "CONTENTS OF REPORT.—Each report required by paragraph (1) shall contain a description of—

"(A) the principal offers of predacious financing by foreign countries during the course of the previous 6 months;

"(B) steps taken by the United States to combat specific predacious financing practices of foreign countries;

"(C) any use by the Bank of the Tied Aid Credit Fund to match specific predacious financing practices of foreign countries and to initiate tied aid credit offers;

"(D) any additional steps the United States may take in the future to discourage use of predacious

financing practices; and

"(E) the progress achieved by negotiations conducted to carry out the purposes described in subsection (a)(5) of this section."

Subsec. (h). Pub. L. 102-429, §103(c)(8), substituted "For purposes of this section, the following definitions shall apply:" for "For the purpose of this section—" in introductory provisions and added par. (6).

1990—Subsec. (c)(2). Pub. L. 101-513, §562(d)(2), substituted "1992" for "1991".

Subsec. (e)(1). Pub. L. 101-513, §562(d)(1), substituted "for fiscal year 1990, \$300,000,000, and for each of fiscal years 1991 and 1992, \$500,000,000" for "and for fiscal years 1990 and 1991, \$300,000,000".

1989—Subsec. (a)(5). Pub. L. 101-240, §101(b)(1), substituted "for the purposes of—", pars. (A) and (B), and concluding provisions for "for the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, and such program should be aggressively used until such an arrangement is established."

Subsec. (b)(1). Pub. L. 101-240, §101(b)(2), inserted introductory provisions and struck out former introductory provisions which read as follows: "For the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, the Bank shall establish a tied aid credit program under which grants shall be made from funds available in the Tied Aid Credit Fund established under subsection (c) of this section—".

Subsec. (b)(2)(A). Pub. L. 101-240, §101(b)(3), substituted "carry out the purposes described in subsection (a)(5) of this section" for "promote the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes".

Subsec. (c)(2). Pub. L. 101-240, §101(b)(4), substituted "amount equal to the concessionality level" for "cost" and "through fiscal year 1991" for "during fiscal years 1986, 1987, 1988, and 1989".

Subsec. (e)(1). Pub. L. 101-240, §101(b)(7), which directed the insertion of ", and for fiscal years 1990, 1991, and 1992, \$200,000,000" after "\$300,000,000" was not executed in view of earlier amendment by section 101(b)(5) of Pub. L. 101-240, which inserted ", and for fiscal years 1990 and 1991, \$300,000,000" after "\$300,000,000", and in view of Senate floor amendment of the bill which added the authorization contained in section 101(b)(5) and was intended to replace the authorization now appearing in section 101(b)(7). See Cong. Rec., vol. 135, pt. 22, pp. 31199, 31203, Nov. 21, 1989.

Pub. L. 101-240, §101(b)(5), inserted ", and for fiscal years 1990 and 1991, \$300,000,000" after "\$300,000,000".

Subsec. (g)(2)(E). Pub. L. 101-240, §101(b)(6), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "any progress achieved in negotiations to establish a comprehensive international arrangement restricting the use of tied aid and partially untied credits for commercial purposes."

1988—Subsecs. (c)(2), (e)(1). Pub. L. 100-418 substituted "1988, and 1989" for "and 1988".

1987—Subsec. (c)(2). Pub. L. 100-217 substituted "during fiscal years 1986, 1987, and 1988" for "during fiscal year 1986".

STATUTORY NOTES AND RELATED SUBSIDIARIES

USE OF FUND TO DISCOURAGE PREDATORY FINANCING PRACTICES

Pub. L. 100-418, title III, §3302(a), Aug. 23, 1988, 102 Stat. 1383, provided that: "The Congress finds that—

"(1) negotiations have led to an international agreement to increase the grant element required in tied aid credit offers;

"(2) concern continues to exist that countries party to the agreement may continue to offer tied aid credits that deviate from the agreement;

"(3) in such cases, the United States could continue to lose export sales in connection with the aggressive, and in some cases, unfair, tied aid practices of such countries; and

"(4) in such cases, the Export-Import Bank of the United States should continue to use the Tied Aid Credit Fund established by section 15(c) [now 10(c)] of the Export-Import Bank Act of 1945 [12 U.S.C. 635i-3(c)] to discourage the use of such predatory financing practices."

§635i-4. Repealed. Pub. L. 102-429, title I, §121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section, act July 31, 1945, ch. 341, §16, as added Oct. 21, 1986, Pub. L. 99-509, title II, §2002, 100 Stat.

1880, related to procedures and terms for sale of Bank loans to public.

§635i-5. Environmental policy and procedures

(a) Environmental effects consideration

(1) In general

Consistent with the objectives of section 635(b)(1)(A) of this title, the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services for which support is requested under its direct lending and guarantee programs. Such procedures shall provide for the public disclosure of environmental assessments and supplemental environmental reports required to be submitted to the Bank, including remediation or mitigation plans and procedures, and related monitoring reports. The preceding sentence shall not be interpreted to require the public disclosure of any information described in section 1905 of title 18. Such procedures shall apply to any transaction involving a project—

(A) for which long-term support of \$25,000,000 (or, if less than \$25,000,000, the threshold established pursuant to international agreements, including the Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, as adopted by the Organisation for Economic Co-operation and Development Council on June 28, 2012, and the risk-management framework adopted by financial institutions for determining, assessing, and managing environmental and social risk in projects (commonly referred to as the "Equator Principles")) or more is requested from the Bank;

(B) for which the Bank's support would be critical to its implementation; and

(C) which may have significant environmental effects upon the global commons or any country not participating in the project, or may produce an emission, an effluent, or a principal product that is prohibited or strictly regulated pursuant to Federal environmental law.

(2) Authority to withhold financing

The procedures established under paragraph (1) shall permit the Board of Directors, in its judgment, to withhold financing from a project for environmental reasons or to approve financing after considering the potential environmental effects of a project.

(b) Use of Bank programs to encourage certain exports

(1) In general

The Bank shall encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects (such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank). The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank's programs can be used to support the export of such goods and services. The officer shall act as liaison between the Bank and other Federal Government agencies, including the agencies whose representatives are members of the Environmental Trade Promotion Working Group of the Trade Promotion Coordinating Committee, with respect to overall United States Government policy on the environment.

(2) Limitations on authorization of appropriations

In addition to other funds available to support the export of goods and services described in paragraph (1), there are authorized to be appropriated to the Bank not more than \$35,000,000 for the cost (as defined in section 661a(5) of title 2) of supporting such exports. If, in any fiscal year,

the funds appropriated in accordance with this paragraph are not fully utilized due to insufficient qualified transactions for the export of such goods and services, such funds may be expended for other purposes eligible for support by the Bank.

(c) Inclusion in report to Congress

The Bank shall provide in its annual report to the Congress a summary of its activities under subsections (a) and (b).

(d) Interpretation

Nothing in this section shall be construed to create any cause of action.

(July 31, 1945, ch. 341, §11, formerly §17, as added and renumbered §11, Pub. L. 102–429, title I, §§106, 121(c)(5), Oct. 21, 1992, 106 Stat. 2189, 2199; amended Pub. L. 103–428, §2(a), Oct. 31, 1994, 108 Stat. 4376; Pub. L. 109–438, §18(b), Dec. 20, 2006, 120 Stat. 3281; Pub. L. 114–94, div. E, title LIV, §54002(d), Dec. 4, 2015, 129 Stat. 1769.)

EDITORIAL NOTES

CODIFICATION

Another section 11 of act July 31, 1945, ch. 341, was renumbered section 14 and is classified to section 635i–8 of this title.

PRIOR PROVISIONS

A prior section 11 of act July 31, 1945, ch. 341, was renumbered section 9 and is classified to section 635h of this title.

AMENDMENTS

2015—Subsec. (a)(1)(A). Pub. L. 114–94 substituted "\$25,000,000 (or, if less than \$25,000,000, the threshold established pursuant to international agreements, including the Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, as adopted by the Organisation for Economic Co-operation and Development Council on June 28, 2012, and the risk-management framework adopted by financial institutions for determining, assessing, and managing environmental and social risk in projects (commonly referred to as the 'Equator Principles')) or more" for "\$10,000,000 or more".

2006—Subsec. (a)(1). Pub. L. 109–438 inserted after first sentence "Such procedures shall provide for the public disclosure of environmental assessments and supplemental environmental reports required to be submitted to the Bank, including remediation or mitigation plans and procedures, and related monitoring reports. The preceding sentence shall not be interpreted to require the public disclosure of any information described in section 1905 of title 18."

1994—Subsec. (b). Pub. L. 103–428 inserted par. (1) designation and heading, inserted before period at end of first sentence "(such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank)", and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 applicable with respect to fiscal year 2016 and each fiscal year thereafter, see section 54002(e) of Pub. L. 114–94, set out as a note under section 635 of this title.

§635i–6. Debt reduction; Enterprise for the Americas Initiative

(a) Definitions

For purposes of this section—

(1) the term "eligible country" means a country designated by the President in accordance with subsection (b);

(2) the term "Facility" means the entity established in the Department of the Treasury by section 1738 of title 7; and

(3) the term "IMF" means the International Monetary Fund.

(b) Eligibility for benefits under the Facility

(1) Requirements

To be eligible for benefits from the Facility under this section, a country must—

(A) be a Latin American or Caribbean country;

(B) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

(i) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility or, in exceptional circumstances, an IMF monitored program or its equivalent; and

(ii) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

(C) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

(D) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(2) Eligibility determinations

The President shall determine whether a country is an eligible country for purposes of paragraph (1).

(c) Loans eligible for sale, reduction, or cancellation

(1) Authority to sell, reduce, or cancel certain loans

Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any loan or portion thereof made before January 1, 1992, to any eligible country or any agency thereof pursuant to this subchapter, or, on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buy-back by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development activities, in a manner consistent with sections 1738f through 1738k of title 7,

if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) Terms and conditions

Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) Treatment under securities laws

The filing of a registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.] shall not be required with respect to the sale or offer for sale by the Bank of a loan or any interest therein pursuant to this section. For purposes of the Securities Act of 1933, the Bank shall not be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan (or any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

(4) Administration

The Facility shall notify the Bank of purchasers that the President has determined to be eligible, and shall direct the Bank to carry out the sale, reduction, or cancellation of a loan pursuant to this section. The Bank shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(5) Limitations

The authorities of this subsection may be exercised only to such extent as provided for in advance in appropriations Acts, as necessary to implement the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.].

(d) Deposit of proceeds

The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(e) Eligible purchasers

A loan may be sold pursuant to subsection (c)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(f) Debtor consultation

Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President shall consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(g) Authorization of appropriations

For the sale, reduction, and cancellation of loans or portions thereof pursuant to this section, there are authorized to be appropriated to the President such sums as may be necessary, which are authorized to remain available until expended.

(July 31, 1945, ch. 341, §12, formerly §18, as added and renumbered §12, Pub. L. 102–429, title I, §§108, 121(c)(6), Oct. 21, 1992, 106 Stat. 2191, 2199; amended Pub. L. 107–189, §24(b)(5), June 14, 2002, 116 Stat. 709; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(L), June 18, 2008, 122 Stat. 1820.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (c)(3), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Federal Credit Reform Act of 1990, referred to in subsec. (c)(5), is title V of Pub. L. 93–344, as added Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 621 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 12 of act July 31, 1945, ch. 341, was classified to section 635i of this title, prior to repeal by

Pub. L. 102-429, §121(c)(1).

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110-246 made technical amendment to reference in original act which appears in text as reference to section 1738 of title 7.

Subsec. (c)(1)(B). Pub. L. 110-246 made technical amendment to reference in original act which appears in text as reference to sections 1738f through 1738k of title 7.

2002—Subsec. (a)(1). Pub. L. 107-189 substituted "subsection (b) of this section" for "section (b) of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§635i-7. Cooperation on export financing programs

The Bank shall, subject to appropriate memoranda of understanding—

(1) provide complete and current information on all of its programs and financing practices to—

(A) the Small Business Administration and other Federal agencies involved in promoting exports and marketing export financing programs; and

(B) State and local export financing organizations that indicate a desire to participate in export promotion; and

(2) consistent with the provisions of section 4721(f)(2) of title 15, undertake a program to provide training for personnel designated in such memoranda with respect to such financing programs.

(July 31, 1945, ch. 341, §13, formerly §19, as added and renumbered §13, Pub. L. 102-429, title I, §§115, 121(c)(7), Oct. 21, 1992, 106 Stat. 2196, 2199.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 13 of act July 31, 1945, ch. 341, was classified to section 635i-1 of this title, prior to repeal by Pub. L. 102-429, §121(c)(1).

§635i-8. Special debt relief for poorest, most heavily indebted countries

(a) Debt reduction authority

The President may reduce amounts of principal and interest owed by any eligible country to the Bank as a result of loans or guarantees made under this subchapter.

(b) Limitations

(1) Types of debt reduction

The authority provided by subsection (a) may be exercised only to implement multilateral agreements to reduce the burden of official bilateral debt as set forth in the minutes of the so-called "Paris Club" (also known as "Paris Club Agreed Minutes").

(2) Eligible countries

(A) "Eligible country" defined

As used in subsection (a), the term "eligible country" means any country that—

- (i) has excessively burdensome external debt;
- (ii) is eligible to borrow from the International Development Association; and
- (iii) is not eligible to borrow from the International Bank for Reconstruction and Development.

(B) Determinations

Subject to subparagraph (A), the President may determine whether a country is an eligible country for purposes of subsection (a).

(c) Conditions

The authority provided by this section may be exercised only with respect to a country whose government—

- (1) does not have an excessive level of military expenditures;
- (2) has not repeatedly provided support for acts of international terrorism;
- (3) is not failing to cooperate on international narcotics control matters; and
- (4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d) Appropriations

The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance in appropriations Acts.

(July 31, 1945, ch. 341, §14, formerly §11, as added Pub. L. 103–87, title V, §570(b), Sept. 30, 1993, 107 Stat. 970; renumbered §14, Pub. L. 103–428, §2(b), Oct. 31, 1994, 108 Stat. 4376; Pub. L. 107–189, §24(b)(6), June 14, 2002, 116 Stat. 709.)

EDITORIAL NOTES

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–189 substituted "principal" for "principle".

EXECUTIVE DOCUMENTS

DELEGATION OF AUTHORITY WITH RESPECT TO DEBT REDUCTION FOR POOREST COUNTRIES

Memorandum of President of the United States, June 20, 1994, 59 F.R. 33413, provided:

Memorandum for the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87) (the "Act") [enacting 12 U.S.C. 635i–8], section 14 of the Export-Import Bank Act of 1945 (12 U.S.C. 635—635i–8) [probably means 12 U.S.C. 635i–8], and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

1. There are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, the functions, authorities, and duties conferred upon the President by section 570(a) of the Act [107 Stat. 970].

2. There are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the President of the Export-Import Bank, the functions, authorities, and duties conferred upon the President by section 570(b) of the Act and section 14(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635—635i–8).

The Secretary of the Treasury is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§635i–9. Market windows

(a) Enhanced transparency

To ensure that the Bank financing remains fully competitive, the United States should seek enhanced transparency over the activities of market windows in the OECD Export Credit Arrangement. If such transparency indicates that market windows are disadvantaging United States exporters, the United States should seek negotiations for multilateral disciplines and transparency within the OECD Export Credit Arrangement.

(b) Authorization

The Bank may provide financing on terms and conditions that are inconsistent with those permitted under the OECD Export Credit Arrangement—

(1) to match financing terms and conditions that are being offered by market windows on terms that are inconsistent with those permitted under the OECD Export Credit Arrangement, if—

(A) matching such terms and conditions advances the negotiations for multilateral disciplines and transparency within the OECD Export Credit Arrangement; or

(B) transparency verifies that the market window financing is being offered on terms that are more favorable than the terms and conditions that are available from private financial markets; and

(2) when the foreign government-supported institution refuses to provide sufficient transparency to permit the Bank to make a determination under paragraph (1).

(c) Definition

In this section, the term "OECD" means the Organization for Economic Cooperation and Development.

(July 31, 1945, ch. 341, §15, as added Pub. L. 107–189, §10(b)(1), June 14, 2002, 116 Stat. 703.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

REPORT

Pub. L. 107–189, §10(b)(2), June 14, 2002, 116 Stat. 703, provided that: "Within 2 years after the date of the enactment of this Act [June 14, 2002], the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the rationale for seeking or not seeking negotiations for multilateral disciplines and transparency, the successes, failures, and obstacles in initiating negotiations, and if negotiations were initiated, in reaching an agreement."

SUBCHAPTER II—EXPORT FINANCING

§635j. Export financing program to foster foreign trade and commercial interest of the United States

(a) Congressional statement of policy

It is the policy of the Congress that the Export-Import Bank of the United States should facilitate through loans, guarantees, and insurance (including coinsurance and reinsurance) those export transactions which, in the judgment of the Board of Directors of the Bank, offer sufficient likelihood of repayment to justify the Bank's support in order to actively foster the foreign trade and long-term commercial interest of the United States.

(b) Designation of transactions on books of the Bank; limitation on commitments

The Bank shall specially designate loans, guarantees, and insurance on the books of the Bank made under authority of this subchapter. In connection with guarantees and insurance, not less than

25 per centum of the related contractual liability of the Bank shall be taken into account for the purpose of applying the limitation imposed by section 635e of this title; but the full amount of the related contractual liability of such guarantees and insurance shall be taken into account for the purpose of applying the limitation in section 635(c)(1) of this title, concerning the amount of guarantees and insurance the Bank may have outstanding at any one time thereunder. The aggregate amount of loans plus 25 per centum of the contractual liability of guarantees and insurance outstanding at any one time under this subchapter shall not exceed \$500,000,000.

(Pub. L. 90-390, §1, July 7, 1968, 82 Stat. 296; Pub. L. 96-470, title I, §115, Oct. 19, 1980, 94 Stat. 2240.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (c). Pub. L. 96-470 struck out subsec. (c) which required the Board of Directors of the Bank to submit to Congress for the calendar ending Sept. 30, 1968, and each calendar quarter thereafter, a report of all actions taken under authority of sections 635j to 635n of this title during such quarter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 11420. EXPORT EXPANSION ADVISORY COMMITTEE

Ex. Ord. No. 11420, July 31, 1968, 33 F.R. 10997, provided:

WHEREAS foreign trade is an essential and continuing element in sustaining the growth, strength, and prosperity of our economy, contributes to the improvement of our balance of payments, and fosters the long-term commercial interest of the United States; and

WHEREAS, on March 20, 1968, I requested the Congress to empower the Export-Import Bank of the United States to use up to \$500,000,000 of its loan, guarantee, and insurance authority to finance a broadened program to sell American goods in foreign markets; and

WHEREAS the Congress has authorized the Bank to extend loans, guarantees, and insurance which, in the judgment of the Board of Directors of the Bank, offer sufficient likelihood of repayment to justify the Bank's support in order to actively foster the foreign trade and long-term commercial interest of the United States; and

WHEREAS it is desirable and appropriate that guidance concerning the commercial interests and the balance of payments objectives of the United States be provided to the Board of Directors of the Bank in the use of such loan, guarantee, and insurance authority allocated to finance export expansion, and I have stated that I would establish an Export Expansion Advisory Committee to provide such guidance to the Board of Directors of the Bank:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of Advisory Committee.* (a) There is hereby established the Export Expansion Advisory Committee (hereinafter referred to as "the Committee").

(b) The Committee shall be composed of the following members: the Secretary of Commerce, who shall be Chairman of the Committee, the Secretary of the Treasury, the Secretary of State, and the President and Chairman of the Board of the Export-Import Bank of the United States.

SEC. 2. *Functions of the Committee.* The Committee shall review and make recommendations concerning applications and proposals for loans, guarantees, and insurance to be charged against allocations made to finance export expansion and shall provide guidance to the Board of Directors of the Bank concerning the use

of such allocations with the view to fostering the foreign trade and long-term commercial interest of the United States.

SEC. 3. *Construction.* Nothing in this order shall be construed to abrogate, modify, or restrict any function vested by law in, or assigned pursuant to law to, any Federal agency or any officer thereof or to any Federal interagency council or committee. As used herein the term "any Federal agency" includes any executive department and any other executive agency.

LYNDON B. JOHNSON.

§635k. Apportionment of losses incurred on loans, guarantees, and insurance; reimbursement; contingent obligations

In the event of any losses, as determined by the Board of Directors of the Bank, incurred on loans, guarantees, and insurance extended under this subchapter, the first \$100,000,000 of such losses shall be borne by the Bank; the second \$100,000,000 of such losses shall be borne by the Secretary of the Treasury; and any losses in excess thereof shall be borne by the Bank. Reimbursement of the Bank by the Secretary of the Treasury of the amount of losses which are to be borne by the Secretary of the Treasury as aforesaid shall be from funds made available pursuant to section 635l of this title. All guarantees and insurance issued by the Bank shall be considered contingent obligations backed by the full faith and credit of the Government of the United States of America.

(Pub. L. 90–390, §2, July 7, 1968, 82 Stat. 297.)

§635l. Authorization for appropriation of funds for losses

There are hereby authorized to be appropriated to the Secretary of the Treasury without fiscal year limitation \$100,000,000 to cover the amount of any losses which are to be borne by the Secretary of the Treasury as provided in section 635k of this title.

(Pub. L. 90–390, §3, July 7, 1968, 82 Stat. 297.)

§635m. Loans, guarantees, and insurance subject to the provisions of this chapter

Nothing in this subchapter shall be construed as a limitation on the powers of the Bank under subchapter I of this chapter; and except as to the standard of reasonable assurance of repayment required under section 635(b)(1) of this title, all loans, guarantees, and insurance extended hereunder shall be subject to the provisions of subchapter I of this chapter and to the policies of the Bank with respect to terms of repayment, interest rates, fees, and premiums applicable to loans, guarantees, and insurance extended under subchapter I of this chapter.

(Pub. L. 90–390, §4, July 7, 1968, 82 Stat. 297.)

§635n. Prohibition of loans, guarantees, and insurance as to sales of defense articles or services

The Bank shall not extend loans, guarantees, or insurance under this subchapter in connection with the sale of defense articles or defense services.

(Pub. L. 90–390, §5, July 7, 1968, 82 Stat. 297.)

SUBCHAPTER III—TIED AID CREDIT EXPORT SUBSIDIES

§635o. Congressional statement of purpose

The purpose of this subchapter is—

(1) to expand employment and economic growth in the United States by expanding United States exports to the markets of the developing world;

(2) to stimulate the economic development of countries in the developing world by improving their access to credit for the importation of United States products and services for developmental purposes;

(3) to neutralize the predatory financing engaged in by many nations whose exports compete with United States exports, and thereby restore export competition to a market basis; and

(4) to encourage foreign governments to enter into effective and comprehensive agreements with the United States to end the use of tied aid credits for exports, and to limit and govern the use of export credit subsidies generally.

(Pub. L. 98–181, title I [title VI, §642], Nov. 30, 1983, 97 Stat. 1263.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this part", meaning part C (§§641–647, 650) of title VI of Pub. L. 98–181, title I, Nov. 30, 1983, 97 Stat. 1263, known as the Trade and Development Enhancement Act of 1983, which enacted this subchapter and section 1671g of Title 19, Customs Duties, and amended sections 1671a and 1671b of Title 19. For complete classification of this Act to the Code, see Short Title note below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 98–181, title I [title VI, §641], Nov. 30, 1983, 97 Stat. 1263, provided that: "This part [part C (§§641–647, 650) of title VI, enacting this subchapter and section 1671g of Title 19, Customs Duties, and amending sections 1671a and 1671b of Title 19] may be referred to as the 'Trade and Development Enhancement Act of 1983'."

§635p. Presidential mandate to negotiate; objectives

The President shall vigorously pursue negotiations to limit and set rules for the use of tied aid for exports. The negotiating objectives of the United States should include reaching agreements—

(1) to define the various forms of tied aid credit, particularly mixed credits under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development (hereinafter in this subchapter referred to as the "Arrangement");

(2) to phase out the use of government-mixed credits by a date certain;

(3) to set rules governing the use of public-private cofinancing, or other forms of mixed financing, which may have the same result as government-mixed credits of drawing on concessional development assistance to produce subsidized export financing;

(4) to raise the threshold for notification of the use of tied aid credit to a 50 per centum level of concessionality;

(5) to improve notification procedures so that advance notification must be given on all uses of tied aid credit; and

(6) to prohibit the use of tied aid credit for production facilities for goods which are in structural oversupply in the world.

(Pub. L. 98–181, title I [title VI, §643], Nov. 30, 1983, 97 Stat. 1263.)

§635q. Establishment of tied aid credit program in United States Export-Import Bank

(a) Establishment and elements of program; cooperation with Trade and Development Agency and private institutions and entities

(1) The Chairman of the Export-Import Bank of the United States shall establish, within the Export-Import Bank of the United States, a program of tied aid credits for United States exports.

(2) The program shall be carried out in cooperation with the Trade and Development Agency and with private financial institutions or entities, as appropriate.

(3) The program may include—

(A) the combined use of the credits, loans, or guarantees offered by the Export-Import Bank of the United States with concessional financing or grants made available under section 635r(d) of this title, by methods including the blending of the financing of, or parallel financing by, the Bank and the Trade and Development Agency; and

(B) the combined use of credits, loans, or guarantees offered by the Bank, with financing offered by private financial institutions or entities, by methods including the blending of the financing of, or parallel financing by, the Bank and private institutions or entities.

(b) Purpose of program

The purpose of the tied aid credit program under this section is to offer or arrange for financing for the export of United States goods and services which is substantially as concessional as foreign financing for which there is reasonable proof that such foreign financing is being offered to, or arranged for, a bona fide foreign competitor for a United States export sale.

(c) Fund

The Chairman of the Bank is authorized to establish a fund, as necessary, for carrying out the tied aid credit program described in this section.

(d) Availability of concessional financing or grants

Concessional financing or grants made available under section 635r(d) of this title for the purposes of the mixed financing program established under this section shall be made available in accordance with the provisions of section 635r(c) of this title.

(Pub. L. 98–181, title I [title VI, §644], Nov. 30, 1983, 97 Stat. 1264; Pub. L. 100–418, title II, §2204(c)(1)(A), Aug. 23, 1988, 102 Stat. 1330; Pub. L. 102–549, title II, §202(c)(1), Oct. 28, 1992, 106 Stat. 3658.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (a)(2), (3)(A). Pub. L. 102–549 substituted "Development Agency" for "Development Program".

1988—Subsec. (a)(2). Pub. L. 100–418, §2204(c)(1)(A)(i), substituted "Trade and Development Program" for "Agency for International Development".

Subsec. (a)(3)(A). Pub. L. 100–418, §2204(c)(1)(A)(ii), substituted "made available under section 635r(d) of this title" for "offered by the Agency for International Development" and "Trade and Development Program" for "Agency for International Development".

Subsec. (d). Pub. L. 100–418, §2204(c)(1)(A)(iii), substituted "made available under section 635r(d) of this title" for "offered by the Agency for International Development" and "section 635r(c) of this title" for "subsections (c) and (d) of section 635r of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSITION PROVISIONS

Pub. L. 100–418, title II, §2204(d)(2), Aug. 23, 1988, 102 Stat. 1331, provided that:

"(A) The Administrator of the Agency for International Development shall transfer to the Director of the

Trade and Development Program [now Trade and Development Agency] all records, contracts, applications, and any other documents or information in connection with the functions transferred by virtue of the amendments made by subsection (c)(1) [amending sections 635q and 635r of this title].

"(B) All determinations, regulations, and contracts—

"(i) which have been issued, made, granted, or allowed to become effective by the President, the Agency for International Development, or by a court of competent jurisdiction, in the performance of the functions transferred by virtue of the amendments made by subsection (c)(1), and

"(ii) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Director of the Trade and Development Program [now Trade and Development Agency], or other authorized official, by a court of competent jurisdiction, or by operation of law.

"(C)(i) The amendments made by subsection (c)(1) shall not affect any proceedings, including notices of proposed rulemaking, or any application for any financial assistance, which is pending on the effective date of this section [Aug. 23, 1988] before the Agency for International Development in the exercise of functions transferred by virtue of the amendments made by subsection (c)(1). Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

"(ii) Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section [amending sections 635q, 635r, and 635s of this title, section 5314 of Title 5, Government Organization and Employees, and section 2421 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as a note under section 2421 of Title 22] had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Trade and Development Program [now Trade and Development Agency] or other authorized official, by a court of competent jurisdiction, or by operation of law.

"(iii) Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

"(iv) The Director of the Trade and Development Program [now Trade and Development Agency] is authorized to issue regulations providing for the orderly transfer to the Trade and Development Program of proceedings continued under this subparagraph.

"(D) With respect to any function transferred by virtue of the amendments made by subsection (c)(1) and exercised on or after the effective date of this section [Aug. 23, 1988], reference in any other Federal law to the Agency for International Development or any officer shall be deemed to refer to the Trade and Development Program [now Trade and Development Agency] or other official to which such function is so transferred."

§635r. Establishment of tied aid credit program administered by Trade and Development Agency

(a) Establishment and elements of program

The Director of the Trade and Development Agency shall carry out a program of tied aid credits for United States exports. The program shall be carried out in cooperation with the Export-Import Bank of the United States and with private financial institutions or entities, as appropriate. The program may include—

(1) the combined use of the credits, loans, or guarantees offered by the Bank with concessional financing or grants made available under subsection (d), by methods including the blending of the financing of, or parallel financing by, the Bank and the Trade and Development Agency; and

(2) the combination of concessional financing or grants made available under subsection (d) with financing offered by private financial institutions or entities, by methods including the blending of the financing of, or parallel financing by, the Trade and Development Agency and private institutions or entities.

(b) Combination of funds with financing by Export-Import Bank or private commercial financing

These funds may be combined with financing by the Export-Import Bank of the United States or

private commercial financing in order to offer, or arrange for, financing for the exportation of United States goods and services which is substantially as concessional as foreign financing for which there is reasonable proof that such foreign financing is being offered to, or arranged for, a bona fide foreign competitor for a United States export sale.

(c) Limitation on use of Agency funds; authorization for establishment of fund

(1) Funds which are used to carry out a tied aid credit program authorized by subsections (a) and (b) shall be offered only to finance United States exports which can reasonably be expected to contribute to the advancement of the development objectives of the importing country or countries, and shall be consistent with the economic, security, and political criteria used to establish country allocations of Economic Support Funds.

(2) The Director of the Trade and Development Agency is authorized to establish a fund, as necessary, for carrying out a tied aid credit financing program as described in this section.

(d) Use of Economic Support Funds

Funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] may be used by the Director of the Trade and Development Agency, with the concurrence of the Secretary of State (as provided under section 531 of the Foreign Assistance Act of 1961 [22 U.S.C. 2346]), for the purposes for which funds made available under this subsection are authorized to be used in section 635q of this title and this section. The Secretary of State shall exercise his authority in cooperation with the Administrator of the Agency for International Development. Funds made available pursuant to this subsection may be used to finance a tied aid credit activity in any country eligible for tied aid credits under this subchapter.

(Pub. L. 98–181, title I [title VI, §645], Nov. 30, 1983, 97 Stat. 1264; Pub. L. 100–418, title II, §2204(c)(1)(B), Aug. 23, 1988, 102 Stat. 1330; Pub. L. 102–549, title II, §202(c), Oct. 28, 1992, 106 Stat. 3658.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (d), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapter 4 of part II of the Foreign Assistance Act of 1961 is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

This subchapter, referred to in subsec. (d), was in the original "this Act" and was translated as meaning the Trade and Development Enhancement Act of 1983, part C (§§641–647, 650) of title VI of Pub. L. 98–181, title I, Nov. 30, 1983, 97 Stat. 1263, which enacted this subchapter and section 1671g of Title 19, Customs Duties, and amended sections 1671a and 1671b of Title 19. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1992—Pub. L. 102–549 substituted "Development Agency" for "Development Program" in section catchline and wherever appearing in subsections (a), (c), and (d).

1988—Pub. L. 100–418, §2204(c)(1)(B)(i), in section catchline, substituted reference to program administered by Trade and Development Program for reference to program in Agency for International Development.

Subsec. (a). Pub. L. 100–418, §2204(c)(1)(B)(ii)(I), substituted "Director of the Trade and Development Program shall carry out" for "Administrator of the Agency for International Development shall establish within the Agency".

Subsec. (a)(1). Pub. L. 100–418, §2204(c)(1)(B)(ii)(II), (III), substituted "made available under subsection (d) of this section" for "offered by the Agency for International Development" and "Trade and Development Program" for "Agency for International Development".

Subsec. (a)(2). Pub. L. 100–418, §2204(c)(1)(B)(ii)(IV), (V), substituted "made available under subsection (d) of this section" for "offered by the Agency for International Development" and "Trade and Development Program" for "Agency for International Development".

Subsec. (c)(1). Pub. L. 100–418, §2204(c)(1)(B)(iii)(I), which directed that par. (1) be amended by striking

out "of the Agency for International Development" after "Funds", was executed by striking out "of the agency for International Development", to reflect the probable intent of Congress.

Subsec. (c)(2). Pub. L. 100-418, §2204(c)(1)(B)(iii)(II), substituted "Director of the Trade and Development Program" for "Administrator of the Agency for International Development".

Subsec. (d). Pub. L. 100-418, §2204(c)(1)(B)(iv), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The Administrator of the Agency for International Development may draw on Economic Support Funds allocated for Commodity Import Programs to finance a tied aid credit activity."

§635s. Implementation

(a)(1) The National Advisory Council on International Monetary and Financial Policies shall coordinate the implementation of the tied aid credit programs authorized by sections 635q and 635r of this title.

(2) No financing may be approved under the tied aid credit programs authorized by section 635q or 635r of this title without the unanimous consent of the members of the National Advisory Council on International Monetary and Financial Policies.

(b) The Trade and Development Agency shall be represented at any meetings of the National Advisory Council on International Monetary and Financial Policies for discussion of tied aid credit matters, and the representative of the Trade and Development Agency at any such meeting shall have the right to vote on any decisions of the Advisory Council relating to tied aid credit matters.

(Pub. L. 98-181, title I [title VI, §646], Nov. 30, 1983, 97 Stat. 1265; Pub. L. 100-418, title II, §2204(c)(2), Aug. 23, 1988, 102 Stat. 1331; Pub. L. 102-549, title II, §202(c)(1), Oct. 28, 1992, 106 Stat. 3658.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-549 substituted "Development Agency" for "Development Program" in two places.

1988—Subsec. (b). Pub. L. 100-418 added subsec. (b).

§635t. Definitions

For purposes of this subchapter—

(1) the term "tied aid credit" means credit—

- (A) which is provided for development aid purposes;
- (B) which is tied to the purchase of exports from the country granting the credit;
- (C) which is financed either exclusively from public funds, or, as a mixed credit, partly from public and partly from private funds; and
- (D) which has a grant element, as defined by the Development Assistance Committee of the Organization for Economic Cooperation and Development, greater than zero percent;

(2) the term "government-mixed credits" means the combined use of credits, insurance, and guarantees offered by the Export-Import Bank of the United States with concessional financing or grants offered by the Agency for International Development to finance exports;

(3) the term "public-private cofinancing" means the combined use of either official development assistance or official export credit with private commercial credit to finance exports;

(4) the term "blending of financings" means the use of various combinations of official development assistance, official export credit, and private commercial credit, integrated into a single package with a single set of financial terms, to finance exports;

(5) the term "parallel financing" means the related use of various combinations of separate lines of official development assistance, official export credits, and private commercial credit, not combined into a single package with a single set of financial terms, to finance exports; and

(6) the term "Bank" means the Export-Import Bank of the United States.
(Pub. L. 98–181, title I [title VI, §647], Nov. 30, 1983, 97 Stat. 1265.)

CHAPTER 7—FARM CREDIT ADMINISTRATION

EDITORIAL NOTES

CODIFICATION

The bulk of this chapter was repealed by Pub. L. 92–181, §5.26(a), Dec. 10, 1971, 85 Stat. 625, which completely rewrote the farm credit laws and represented a fundamental reworking of the statutory basis for the farm credit system. The farm credit system is covered in chapter 23 (§2001 et seq.) of this title. See notes set out under section 2001 of this title.

FARM CREDIT ADMINISTRATION; GENERAL ADMINISTRATIVE PROVISIONS

§§636 to 636h. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 636, acts May 12, 1933, ch. 25, title II, §40, 48 Stat. 51; Sept. 6, 1966, Pub. L. 89–554, §8(a), 80 Stat. 648, provided for organization of Farm Credit Administration. See section 2247 of this title.

Section 636a, act Aug. 6, 1953, ch. 335, §2, 67 Stat. 390, stated Congressional declaration of policy concerning agricultural credit. See section 2001 of this title.

Section 636a note, act Aug. 6, 1953, ch. 335, §1, 67 Stat. 390, provided that such act Aug. 6, 1953, should be known as "Farm Credit Act of 1953".

Section 636b, act Aug. 6, 1953, ch. 335, §3, 67 Stat. 390, covered the creation of Farm Credit Administration as an independent agency in executive branch. See section 2241 et seq. of this title.

Section 636c, acts Aug. 6, 1953, ch. 335, §4, 67 Stat. 390; Aug. 11, 1955, ch. 785, title IV, §402, 69 Stat. 666; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387; Aug. 2, 1966, Pub. L. 89–525, §6, 80 Stat. 335, provided for creation of Federal Farm Credit Board. See section 2242 et seq. of this title.

Section 636d, act Aug. 6, 1953, ch. 335, §5, 67 Stat. 392; Aug. 18, 1959, Pub. L. 86–168, title I, §104(j), 73 Stat. 387; Oct. 4, 1961, Pub. L. 87–367, title III, §302(a), 75 Stat. 793, provided for position of Governor of Farm Credit Administration. See section 2244 et seq. of this title.

Section 636e, act Aug. 6, 1953, ch. 335, §6, 67 Stat. 393, covered duties of Federal Farm Credit Board. See section 2227 of this title.

Section 636f, acts Aug. 6, 1953, ch. 335, §7, 67 Stat. 393; Aug. 11, 1955, ch. 785, title I, §110(c), 69 Stat. 662; Oct. 4, 1961, Pub. L. 87–353, §3(n), 75 Stat. 774, provided for abolishment of certain offices and funds under program as it existed prior to 1953.

Section 636g, acts Aug. 6, 1953, ch. 335, §8, 67 Stat. 394; July 26, 1956, ch. 741, title I, §107(a), 70 Stat. 666; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, authorized delegation of powers to institutions in farm credit districts.

Section 636h, act Aug. 6, 1953, ch. 335, §17(b), 67 Stat. 399, covered administrative expenditures of Farm Credit Administration. See section 2249 of this title.

§§637, 638. Repealed. Aug. 6, 1953, ch. 335, §19, 67 Stat. 400

Section 637, acts May 12, 1933, ch. 25, title II, §39, 48 Stat. 50; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273, related to certain functions, powers, authority, and duties of Land Bank Commissioner.

Section 638, act June 16, 1933, ch. 98, title VIII, §80, 48 Stat. 273, changed name of office of Farm Loan Commissioner to Land Bank Commissioner, contained provisions relating to his term of office, and contained

provisions relating to appointment (within the Farm Credit Administration), compensation, expenses and duties of a Production Credit Commissioner, a Cooperative Bank Commissioner, and an Intermediate Credit Commissioner.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Aug. 6, 1953, see act Aug. 6, 1953, ch. 335, §18, 67 Stat. 399.

§§639, 640. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 639, act June 16, 1933, ch. 98, title VIII, §82, 48 Stat. 273, made a supplementary grant of powers to Governor of Farm Credit Administration.

Section 640, act June 16, 1933, ch. 98, title VIII, §85, 48 Stat. 273, authorized Farm Credit Administration to have a seal. See section 2248 of this title.

§640–1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act July 1, 1944, ch. 364, 58 Stat. 675, related to prepayment of balance of purchase price with respect to contracts or agreements for sale of real estate having been in force for five years.

DISTRICT ORGANIZATIONS UNDER SUPERVISION OF FARM CREDIT ADMINISTRATION; FARM CREDIT DISTRICTS AND FARM CREDIT BOARDS

§§640a to 640f. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 640a, acts Aug. 19, 1937, ch. 704, §5(a), 50 Stat. 704; Oct. 29, 1949, ch. 786, §5, 63 Stat. 986, created farm credit districts. See section 2221 of this title.

Section 640b, acts Aug. 19, 1937, ch. 704, §5(b), 50 Stat. 704; Aug. 6, 1953, ch. 335, §14, 67 Stat. 396; Aug. 11, 1955, ch. 785, title IV, §401(a), 69 Stat. 666; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, provided for creation of district farm credit boards. See section 2222 of this title.

Section 640c, act Aug. 19, 1937, ch. 704, §5(c), 50 Stat. 704, provided for initial board of directors of each district.

Section 640d, acts Aug. 19, 1937, ch. 704, §5(d), 50 Stat. 704; Aug. 6, 1953, ch. 335, §15, 67 Stat. 397; Aug. 11, 1955, ch. 785, title IV, §401(b), 69 Stat. 666; July 26, 1956, ch. 741, title I, §106(a)(1), 70 Stat. 666; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, provided for replacement of district directors. See section 2221 et seq. of this title.

Section 640e, acts Aug. 19, 1937, ch. 704, §5(e), 50 Stat. 705; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387; Aug. 2, 1966, Pub. L. 89–525, §5, 80 Stat. 334, provided for nomination of elected directors. See section 2223 of this title.

Section 640f, acts Aug. 19, 1937, ch. 704, §5(f), 50 Stat. 705; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387; Aug. 2, 1966, Pub. L. 89–525, §5, 80 Stat. 334, provided for election of elected directors. See section 2223 of this title.

Section 640g, act Aug. 19, 1937, ch. 704, §5(g), 50 Stat. 705, provided for term of office and filling of vacancies. See section 2221 et seq. of this title.

Section 640h, acts Aug. 19, 1937, ch. 704, §5(h), 50 Stat. 705; July 26, 1956, ch. 741, title I, §106(a)(2), 70 Stat. 666, set out general qualifications of members of each farm credit board. See section 2222 of this title.

Section 640i, act Aug. 19, 1937, ch. 704, §5(i), 50 Stat. 706, made felons and defrauders ineligible for membership. See section 2222 of this title.

Section 640j, act Aug. 19, 1937, ch. 704, §5(j), 50 Stat. 706, provided for compensation of members of farm credit boards. See section 2226 of this title.

Section 640k, act Aug. 19, 1937, ch. 704, §5(k), 50 Stat. 706, declared sections 640a to 640j of this title as not affecting laws making agricultural credit laws applicable to territories and possessions.

Section 640l, acts Aug. 19, 1937, ch. 704, §6, 50 Stat. 706; July 26, 1956, ch. 741, title I, §106(b), 70 Stat. 666; Aug. 18, 1959, Pub. L. 86-168, title II, §201, 73 Stat. 387; Sept. 6, 1966, Pub. L. 89-554, §8(a), 80 Stat. 649, set out status of farm credit banks and employees. See section 2221 et seq. of this title.

SUBCHAPTER I—FEDERAL LAND BANKS, JOINT-STOCK LAND BANKS, AND FEDERAL LAND BANK ASSOCIATIONS

§§641, 642. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 641, acts July 17, 1916, ch. 245, title I, §1, 39 Stat. 360; Mar. 4, 1923, ch. 252, title I, §§1, 2, 42 Stat. 1454; Ex. Ord. No. 6084, Mar. 27, 1933, directed that act July 17, 1916, be administered by the Farm Credit Administration.

Section 642, act July 17, 1916, ch. 245, title I, §2, 39 Stat. 360; Ex. Ord. No. 6084, Mar. 27, 1933, defined terms "first mortgage" and "farm-loan bonds".

ADMINISTRATIVE PROVISIONS RELATIVE TO THIS SUBCHAPTER

§651. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, §3, 39 Stat. 360; Ex. Ord. No. 6084, Mar. 27, 1933, provided for creation of Federal Farm Loan Bureau.

§§652 to 655. Repealed. Aug. 6, 1953, ch. 335, §19, 67 Stat. 400

Sections, act July 17, 1916, ch. 245, title I, §3 (part), 39 Stat. 360, related to appointment, compensation, and oath of Land Bank Commissioner, restriction on his right to engage in certain business and filling vacancies.

Section 652 was amended by act Mar. 4, 1923, ch. 252, title III, §301, 42 Stat. 1473; Ex. Ord. No. 6084, Mar. 27, 1933; and act June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273.

Sections 653, 654, and 655 were each amended by Ex. Ord. No. 6084, Mar. 27, 1933; and act June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Aug. 6, 1953, see act Aug. 6, 1953, ch. 335, §18, 67 Stat. 399.

§§656, 656a. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 656, acts July 17, 1916, ch. 245, title I, §3, 39 Stat. 361; Apr. 20, 1920, ch. 154, §1, 41 Stat. 570;

Ex. Ord. No. 6084 Mar. 27, 1933; Aug. 19, 1937, ch. 704, §§5(a), 20, 50 Stat. 704, 710; Aug. 18, 1959, Pub. L. 86–168, title I, §101(a), 73 Stat. 384, provided for appointment of registrars, appraisers, and examiners.

Section 656a, act Aug. 19, 1937, ch. 704, §20, 50 Stat. 710, provided for designation of farm credit examiners.

§657. Repealed. Sept. 21, 1944, ch. 412, §601(d), 58 Stat. 741, eff. July 1, 1944

Section, act July 17, 1916, ch. 245, title I, §3, 39 Stat. 361, as amended by acts Mar. 4, 1923, ch. 252, title III, §302, 42 Stat. 1473; Mar. 4, 1925, ch. 524, §3, 43 Stat. 1262; June 26, 1930, ch. 613, 46 Stat. 815, related to payment of salaries and expenses of certain employees of Federal Farm Loan Bureau.

§§658, 659. Repealed. Pub. L. 86–168, title I, §101(b), (c), Aug. 18, 1959, 73 Stat. 384, eff. Dec. 31, 1959

Section 658, acts July 17, 1916, ch. 245, title I, §3, 39 Stat. 361; Mar. 4, 1923, ch. 252, title III, §302, 42 Stat. 1473; Mar. 4, 1925, ch. 524, §3, 43 Stat. 1262, related to compensation and manner of payment of Federal landbank appraisers and appraisers or inspectors of Federal intermediate credit banks.

Section 659, acts July 17, 1916, ch. 245, title I, §3, 39 Stat. 361; Mar. 4, 1925, ch. 524, §4, 43 Stat. 1263, related to employment of attorneys, experts, and other employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 31, 1959, see Pub. L. 86–168, title I, §104(k), Aug. 18, 1959, 73 Stat. 387.

§§660 to 665. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 660, act July 17, 1916, ch. 245, title I, §3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933, provided for submission of statements covering salaries paid by land banks.

Section 661, act July 17, 1916, ch. 245, title I, §3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933, required filing of an annual report to Congress by Farm Credit Administration. See section 2221 et seq. of this title.

Section 662, acts July 17, 1916, ch. 245, title I, §3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86–168, title I, §101(d), 73 Stat. 384, provided for examinations and reports. See section 2254 of this title.

Section 663, acts July 17, 1916, ch. 245, title I, §3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title III, §301(a), 69 Stat. 664; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, provided for statements of condition of land bank associations and land banks. See section 2254 of this title.

Section 664, act July 17, 1916, ch. 245, title I, §3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933, authorized preparation of bulletins and circulars by Farm Credit Administration. See section 2252 of this title.

Section 665, acts Jan. 23, 1932, ch. 9, §6, 47 Stat. 14; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title I, §110(d), 69 Stat. 662, authorized Farm Credit Administration to make rules and regulations. See section 2252 of this title.

ORGANIZATION OF FEDERAL LAND BANKS

§671. Repealed. Aug. 19, 1937, ch. 704, §7(a), 50 Stat. 707

Section, act July 17, 1916, ch. 245, title I, §4, 39 Stat. 362, related to designation of Federal land bank districts by Farm Credit Administration.

§§672 to 677a. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 672, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 362; Feb. 27, 1921, ch. 78, 41 Stat. 1148; Mar. 4, 1923, ch. 252, title III, §303, 42 Stat. 1474; Mar. 4, 1929, ch. 700, 45 Stat. 1558; May 17, 1932, ch. 190, 47 Stat. 158; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §5(a), 50 Stat. 704; June 30, 1945, ch. 204, §3, 59 Stat. 267; Oct. 29, 1949, ch. 786, §1(a), 63 Stat. 985; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, provided for establishment of Federal land banks. See section 2011 of this title.

Section 672a, acts Mar. 10, 1924, ch. 46, §2, 43 Stat. 17; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §5(a), 50 Stat. 704, provided for extension of farm credit system under Farm Credit Administration to Hawaii.

Section 673, act July 17, 1916, ch. 245, title I, §4, 39 Stat. 362; Ex. Ord. No. 6084, Mar. 27, 1933, provided for temporary management of Federal land banks.

Section 674, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 362; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, set out requisite contents of organization certificates for land banks.

Section 675, act July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Ex. Ord. No. 6084, Mar. 27, 1933, authorized changes in organization certificates on direction of Farm Credit Administration.

Section 676, act July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Ex. Ord. No. 6084, Mar. 27, 1933, set time for commencement of corporate existence of land banks and enumerated their powers. See section 2012 of this title.

Section 677, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, set time for termination of temporary management of land banks.

Section 677a, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, §304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, §70a(a)(1)–(4), title VIII, §80(a), 48 Stat. 269, 273; Aug. 19, 1937, ch. 704, §7(b), 50 Stat. 707, provided for compensation of director of farm credit boards of each farm credit district. See section 2226 of this title.

§§678 to 682. Omitted

EDITORIAL NOTES

CODIFICATION

Sections were stricken by act Aug. 19, 1937, ch. 704, §7(b), 50 Stat. 707, and former section 677a of this title was substituted in lieu thereof.

Section 678, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, §304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, §70a(a)(1), 48 Stat. 269, related to number and qualifications of directors.

Section 678a, act June 16, 1933, ch. 98, title VII, §70a(b), 48 Stat. 270, related to successors of directors.

Section 679, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, §304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, §70a(a)(2), 48 Stat. 270, related to nomination of candidates for local directors.

Section 680, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, §304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, §70a(a)(3), 48 Stat. 270, related to election of local directors.

Section 681, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, §304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, §70a(a)(4), 48 Stat. 270, related to appointment and election of district directors and director at large, and filling of vacancies.

Section 682, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, §304, 42 Stat. 1474, related to qualifications of directors and limitation on engagement in other business.

§682a. Repealed. Aug. 19, 1937, ch. 704, §7(c), 50 Stat. 707

Section, act June 3, 1935, ch. 164, §23, 49 Stat. 320, related to disqualification of persons convicted of felony or fraud for positions with Federal land banks. See section 640i of this title.

§683. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts July 17, 1916, ch. 245, title I, §4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, §304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, §70, title VIII, §80a, 48 Stat. 269, 273, related to compensation and allowances of directors, officers, and employees, and was stricken by act Aug. 19, 1937, ch. 704, §7(b), 50 Stat. 707. Section 70 of act June 16, 1933, ch. 98, was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 648. See section 2226 of this title.

CAPITAL STOCK OF FEDERAL LAND BANKS

§§691 to 697. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 691, act July 17, 1916, ch. 245, title I, §5, 39 Stat. 364; Ex. Ord. No. 6084, Mar. 27, 1933, provided for minimum amount of original capital for Federal land banks. See section 2013 of this title.

Section 692, act July 17, 1916, ch. 245, title I, §5, 39 Stat. 364, provided for distribution and value of stock for Federal land banks. See section 2013 of this title.

Section 693, acts July 17, 1916, ch. 245, title I, §5, 39 Stat. 364; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, covered transfer of stock held by land bank associations. See section 2013 of this title.

Section 694, acts July 17, 1916, ch. 245, title I, §5, 39 Stat. 364; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, covered dividends for land bank stock. See section 2013 of this title.

Section 695, acts July 17, 1916, ch. 245, title I, §5, 39 Stat. 364; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §5(a), 50 Stat. 704, covered subscription by United States for unsubscribed balance of original capital stock of Federal land banks. See section 2001 et seq. of this title.

Section 696, acts July 17, 1916, ch. 245, title I, §5, 39 Stat. 364; Jan. 23, 1932, ch. 9, §1, 47 Stat. 12; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, covered retirement of original stock of Federal land banks. See section 2051 of this title.

Section 697, acts July 17, 1916, ch. 245, title I, §5, 39 Stat. 364; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, set out required proportion of capital of Federal land banks that had to be held in form of quick assets. See section 2051 of this title.

§698. Repealed. Aug. 11, 1955, ch. 785, title III, §302, 69 Stat. 664

Section, act July 17, 1916, ch. 245, title I, §5 (par.), as added Jan. 23, 1932, ch. 9, §2, 47 Stat. 12, related to subscriptions by United States to capital stock of Federal land banks.

LAND BANKS AS GOVERNMENT DEPOSITARIES AND AGENTS

§701. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, §6, 39 Stat. 365, covered land banks as government depositaries and agents. See section 2012 of this title.

FEDERAL LAND BANK ASSOCIATIONS GENERALLY

§§711 to 724. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 711, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for organization of land bank associations. See section 2031 of this title.

Section 712, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Aug. 19, 1937, ch. 704, §21, 59 Stat. 266; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), (i), 73 Stat. 387, provided for directors, officers, and loan committee of land bank associations. See section 2031 et seq. of this title.

Section 713, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(i), 73 Stat. 387, provided for compensation and qualifications of directors. See section 2032 of this title.

Section 714, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Mar. 4, 1923, ch. 252, title III, §305, 42 Stat. 1476; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title III, §301(b), 69 Stat. 664; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), (i), 73 Stat. 387, set out duties of manager of each land bank association. See section 2031 of this title.

Section 715, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), (i), 73 Stat. 387, provided for expenses of personnel of land bank associations. See section 2033 of this title.

Section 716, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; June 3, 1935, ch. 164, §19(a), (b), 49 Stat. 319; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), (i), 73 Stat. 387, provided for incorporators, organization, directors, and managers of land bank associations. See section 2031 et seq. of this title.

Section 717, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Aug. 18, 1959, Pub. L. 86-168, title I, §104(i), 73 Stat. 387, covered report and affidavit accompanying articles of association. See section 2031 of this title.

Section 718, act July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Ex. Ord. No. 6084, Mar. 27, 1933, provided for investigation of solvency of applicants for incorporation. See section 2254 of this title.

Section 719, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §8, 50 Stat. 707; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, covered grant or refusal of charters to land bank associations. See section 2031 et seq. of this title.

Section 720, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, authorized receipt of funds to be loaned to members. See section 2033 of this title.

Section 721, acts July 17, 1916, ch. 245, title I, §7, 39 Stat. 365; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, covered subscriptions to land bank stock as collateral and retirement of stock. See section 2034 of this title.

Section 722, act July 17, 1916, ch. 245, title I, §7, 39 Stat. 365, placed a limitation on reduction of capital stock of land banks. See section 2034 of this title.

Section 723, acts July 17, 1916, ch. 245, title I, §7 (pt.), as added Mar. 4, 1933, ch. 270, §1, 47 Stat. 1547; amended May 12, 1933, ch. 25, title II, §26, 48 Stat. 44; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273; Jan. 31, 1934, ch. 7, §6, 48 Stat. 346; Aug. 19, 1937, ch. 704, §§5(a), 22, 50 Stat. 704, 710; Oct. 29, 1949, ch. 786, §1(b), 63 Stat. 986; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), (i), 73 Stat. 387; Oct. 4, 1961, Pub. L. 87-353, §3(a), (e), 75 Stat. 773, 774, authorized direct loans. See section 2020 of this title.

Section 724, acts Aug. 19, 1937, ch. 704, §25(b), 50 Stat. 711; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for loans when an association's stock is impaired. See section 2020 of this title.

CAPITAL STOCK OF FEDERAL LAND BANK ASSOCIATIONS

§§731 to 734. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 731, acts July 17, 1916, ch. 245, title I, §8, 39 Stat. 367; Aug. 18, 1959, Pub. L. 86-168, title I,

§104(h), 73 Stat. 387, set a \$5 par value for shares of land bank association stock. See section 2031 of this title.

Section 732, acts July 17, 1916, ch. 245, title I, §8, 39 Stat. 367; Aug. 9, 1937, ch. 704, §23, 50 Stat. 710, set out voting privileges for land bank association stock. See section 2034 of this title.

Section 733, acts July 17, 1916, ch. 245, title I, §8, 39 Stat. 367; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, limited borrowers to members. See section 2034 of this title.

Section 734, acts July 17, 1916, ch. 245, title I, §8, 39 Stat. 367; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title III, §301(c), 69 Stat. 664; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for increases in stock. See section 2034 of this title.

FEDERAL LAND BANK ASSOCIATIONS; SPECIAL PROVISIONS

§§741 to 747. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 741, acts July 17, 1916, ch. 245, title I, §9, 39 Stat. 368; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, covered members' rights to loans. See section 2201 of this title.

Section 742, acts July 17, 1916, ch. 245, title I, §9, 39 Stat. 368; Aug. 18, 1959, Pub. L. 86-168, title I, §102(a), 73 Stat. 384, covered payments for stock from proceeds of member's mortgage loan. See section 2033 of this title.

Section 743, acts July 17, 1916, ch. 245, title I, §9, 39 Stat. 368; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, authorized retention of commissions on interest payments. See section 2033 of this title.

Section 744, acts July 17, 1916, ch. 245, title I, §9, 39 Stat. 368; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for individual liability of shareholders.

Section 744a, acts June 16, 1933, ch. 98, title VII, §72, 48 Stat. 271; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, relieved shareholders of land bank associations of personal liability for contracts, debts, and engagements entered into after June 16, 1933.

Section 745, acts July 17, 1916, ch. 245, title I, §9, 39 Stat. 368; June 3, 1935, ch. 164, 20, 49 Stat. 319; Aug. 19, 1937, ch. 704, §24, 50 Stat. 710; June 30, 1945, ch. 204, §1(b), 59 Stat. 266; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), (i), 73 Stat. 387, provided for new members for land bank associations. See section 2033 of this title.

Section 746, act July 17, 1916, ch. 245, title I, §9 (par.) as added Aug. 19, 1937, ch. 704, §25(a), 50 Stat. 710; amended Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for a common board of directors for two or more associations. See section 2032 of this title.

Section 747, act July 17, 1916, ch. 245, title I, §9 (par.), as added Aug. 19, 1937, ch. 704, §25(a), 50 Stat. 711; amended Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for transfer of powers to a loan committee. See section 2033 of this title.

APPRAISAL FOR FARM LOANS

§§751 to 757. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 751, acts July 17, 1916, ch. 245, title I, §10(a), 39 Stat. 369; Apr. 20, 1920, ch. 154, §2, 41 Stat. 570; June 30, 1945, ch. 204, §2, 59 Stat. 266; Aug. 18, 1959, Pub. L. 86-168, title I, §102(b), 73 Stat. 384, covered investigation of applications for mortgage loans by the loan committee. See section 2033 of this title.

Section 752, acts July 17, 1916, ch. 245, title I, §10(b), 39 Stat. 369; Apr. 20, 1920, ch. 154, §2, 41 Stat. 570; June 30, 1945, ch. 204, §2, 59 Stat. 266; Aug. 18, 1959, Pub. L. 86-168, title I, §102(b), 73 Stat. 385, covered submission of loan applications and required reports to land banks. See section 2033 of this title.

Section 753, acts July 17, 1916, ch. 245, title I, §10(c), 39 Stat. 369; June 30, 1945, ch. 204, §2, 59 Stat. 266; Aug. 18, 1959, Pub. L. 86-168, title I, §102(b), 73 Stat. 385, provided for form for appraisal reports.

Section 754, acts July 17, 1916, ch. 245, title I, §10(d), 39 Stat. 369; Aug. 18, 1959, Pub. L. 86-168, title I, §102(b), 73 Stat. 385, dealt with conflicting interests of farm credit or land bank appraisers, committeemen, and association directors. See section 2254 of this title.

Section 755, acts July 17, 1916, ch. 245, title I, §10(e), 39 Stat. 369; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §102(b), 73 Stat. 385, provided for appraisal standards studies by Federal land banks. See section 2033 of this title.

Section 756, acts July 17, 1916, ch. 245, title I, §10(f), 39 Stat. 369; Aug. 18, 1959, Pub. L. 86-168, title I, §102(b), 73 Stat. 385, covered appraisals, reports, and standards by farm credit appraisers. See section 2012 of this title.

Section 757, act July 17, 1916, ch. 245, title I, §10(g), as added Aug. 11, 1955, ch. 785, title III, §303, 69 Stat. 664; amended Aug. 18, 1959, Pub. L. 86-168, title I, §102(b), 73 Stat. 385, set out duties of farm credit appraisers. See section 2254 of this title.

POWERS OF FEDERAL LAND BANK ASSOCIATIONS

§761. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, title I, §11, 39 Stat. 369; Apr. 20, 1920, ch. 154, §3, 41 Stat. 570; Ex. Ord. No. 6084 Mar. 27, 1933; Aug. 19, 1937, ch. 704, §25(c), 50 Stat. 713; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, enumerated powers of Federal land bank associations. See section 2033 of this title.

RESTRICTION ON LOANS OF FEDERAL LAND BANKS BASED ON FIRST MORTGAGES

§§771, 772. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 771, acts July 17, 1916, ch. 245, §12, 39 Stat. 370; Apr. 20, 1920, ch. 154, §4, 41 Stat. 570; Mar. 4, 1923, ch. 252, title III, §§306, 307, 42 Stat. 1476; Mar. 4, 1933, ch. 270, §2, 47 Stat. 1547; Ex. Ord. No. 6084, Mar. 27, 1933; May 12, 1933, ch. 25, title II, §§24, 25, 41, 48 Stat. 43, 44, 51; June 16, 1933, ch. 98, title VII, §§73, 74, title VIII, §80(a), 48 Stat. 271, 273; June 3, 1935, ch. 164, §§3, 18, 22, 49 Stat. 314, 319; June 24, 1936, ch. 762, 49 Stat. 1912; July 22, 1937, ch. 516, §1, 50 Stat. 521; Aug. 19, 1937, ch. 704; §§5(a), 12, 50 Stat. 704, 708; June 16, 1938, ch. 462, §1, 52 Stat. 709; June 29, 1940, ch. 441, §1, 54 Stat. 684; June 27, 1942, ch. 449, §1, 56 Stat. 391; June 30, 1945, ch. 204, §4, 59 Stat. 267; Oct. 29, 1949, ch. 786, §2, 63 Stat. 986; Aug. 11, 1955, ch. 785, title III, §304, 69 Stat. 664; Aug. 18, 1959, Pub. L. 86-168, title I, §104(a), (h), 73 Stat. 386, 387; Oct. 3, 1961, Pub. L. 87-343, §1(a), 75 Stat. 758; Aug. 2, 1966, Pub. L. 89-525, §2, 80 Stat. 334; Dec. 15, 1967, Pub. L. 90-204, §2, 81 Stat. 612, set out restrictions on loans. See section 2011 et seq. of this title.

Section 772, acts July 17, 1916, ch. 245, title I, §12, 39 Stat. 370; Jan. 31, 1934, ch. 7, §7, 48 Stat. 346; Oct. 4, 1961, Pub. L. 87-353, §3(f), 75 Stat. 774, authorized transmittal of loan funds to land bank associations either in form of current funds or farm loan bonds.

§773. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act May 15, 1922, ch. 190, §3, 42 Stat. 542, which related to mortgages on farm lands under United States reclamation projects, and contained a definition of "first mortgage" as used in section 771 of this title, was omitted because of the repeal of section 771 and other sections of this title that were based on the Federal Farm Loan Act.

§773a. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 4, 1936, ch. 496, 49 Stat. 1461; Pub. L. 87–353, §3(k), Oct. 4, 1961, 75 Stat. 774, provided for loans on lands in drainage, irrigation, or conservancy districts.

POWERS OF FEDERAL LAND BANKS GENERALLY

§781. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, §13, 39 Stat. 372; Jan. 23, 1932, ch. 9, §5, 47 Stat. 14; Mar. 4, 1933, ch. 270, §§3, 4, 47 Stat. 1548; Ex. Ord. No. 6084, Mar. 27, 1933; May 12, 1933, ch. 25, title II, §§22, 23, 48 Stat. 42, 43; June 16, 1933, ch. 98, title VII, §79, title VIII, §80(a), 48 Stat. 272, 273; Jan. 31, 1934, ch. 7, §8(a), 48 Stat. 347; Aug. 19, 1937, ch. 704, §§5(a), 15(a), (b), 16, 17, 19, 50 Stat. 704, 708, 709; June 30, 1945, ch. 204, §§5–7, 59 Stat. 267; Oct. 29, 1949, ch. 786, §3, 63 Stat. 986; June 1, 1955, ch. 117, 69 Stat. 81; Aug. 11, 1955, ch. 785, title III, §305, 69 Stat. 665; July 26, 1956, ch. 741, title I, §104(e), 70 Stat. 664; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387; Oct. 4, 1961, Pub. L. 87–353, §3(g), (h), 75 Stat. 774; Aug. 2, 1966, Pub. L. 89–525, §2, 80 Stat. 334, enumerated powers of Federal land banks generally. See section 2012 of this title.

RESTRICTIONS ON FEDERAL LAND BANKS

§791. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, title I, §14, 39 Stat. 372; Mar. 4, 1933, ch. 270, §5(a), (b), 47 Stat. 1549; June 16, 1933, ch. 98, title VII, §§71, 75(a), 48 Stat. 271; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, set out an enumeration of restriction on Federal land banks. See section 2012 et seq. of this title.

LOANS BY FEDERAL LAND BANKS THROUGH AGENTS

§§801 to 808. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 801, acts July 17, 1916, ch. 245, title I, §15, 39 Stat. 373; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, authorized loans by Federal land banks through agents. See section 2020 of this title.

Section 802, acts July 17, 1916, ch. 245, title I, §15, 39 Stat. 373; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, covered manner of making loan through agents. See section 2020 of this title.

Section 803, act July 17, 1916, ch. 245, title I, §15, 39 Stat. 373, placed limits on who could be employed as agent. See section 2020 of this title.

Section 804, act July 17, 1916, ch. 245, title I, §15, 39 Stat. 373, covered expenses of and commissions to agents. See section 2020 of this title.

Section 805, act July 17, 1916, ch. 245, title I, §15, 39 Stat. 373, provided for addition of expenses of agents to loans. See section 2020 of this title.

Section 806, act July 17, 1916, ch. 245, title I, §15, 39 Stat. 373, covered collection of loan payments. See section 2020 of this title.

Section 807, act July 17, 1916, ch. 245, title I, §15, 39 Stat. 373, covered indorsement of loans and liability thereon. See section 2020 of this title.

Section 808, acts July 17, 1916, ch. 245, title I, §15, 39 Stat. 373; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided when loans were to cease. See section 2020 of this title.

JOINT-STOCK LAND BANKS

§§810 to 824. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 810, act May 12, 1933, ch. 25, title II, §29, 48 Stat. 46, prohibited making of loans or issuing of bonds after May 12, 1933, by joint-stock land banks.

Section 811, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374, provided for organization of joint-stock banks.

Section 812, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374, provided for individual liability of shareholders in joint-stock land banks.

Section 813, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374, covered powers, duties, and liabilities of joint-stock land banks.

Section 814, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374, placed a limit on amount of issue of bonds and prohibited transacting of unauthorized business.

Section 815, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374; Ex. Ord. No. 6084, Mar. 27, 1933, provided for minimum allowable capital stock for joint-stock land banks.

Section 816, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374, prohibited issuance of bonds before capital stock of joint-stock land banks was entirely paid up.

Section 817, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374; Ex. Ord. No. 6084, Mar. 27, 1933, set out required form for bonds issued by joint-stock land banks.

Section 818, acts July 17, 1916, ch. 245, title I, §16, 39 Stat. 374; Mar. 4, 1931, ch. 518, §1, 46 Stat. 1548, set out interest rates and restrictions on mortgage loans for joint-stock land banks.

Section 819, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374, set a limitation on interest rates.

Section 820, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374, prohibited unauthorized commissions or charges by joint-stock land banks.

Section 821, act July 17, 1916, ch. 245, title I, §16, 39 Stat. 374; Ex. Ord. No. 6084, Mar. 27, 1933, authorized issuance of bonds by joint-stock land banks.

Section 822, act July 17, 1916, ch. 245, title I, §16 (par.), as added May 29, 1920, ch. 215, 41 Stat. 691, and amended Ex. Ord. No. 6084, Mar. 27, 1933, provided for voluntary liquidation of joint-stock land banks.

Section 823, act July 17, 1916, ch. 245, title I, §16 (pars.), as added May 29, 1920, ch. 215, 41 Stat. 691; amended Mar. 4, 1925, ch. 524, §5, 43 Stat. 1263; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for acquisition of assets of a liquidating joint-stock land bank.

Section 824, act July 17, 1916, ch. 245, title I, §16 (par.), as added Mar. 4, 1931, ch. 518, §2, 46 Stat. 1548; amended Ex. Ord. No. 6084, Mar. 27, 1933, covered insolvency and receivership of joint-stock land banks.

POWERS OF FARM CREDIT ADMINISTRATION

§§831 to 833. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 831, acts July 17, 1916, ch. 245, title I, §17, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §9, 50 Stat. 707; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, contained an enumeration of the powers of Farm Credit Administration. See section 2252 of this title.

Section 832, acts Sept. 21, 1944, ch. 412, title VI, §601(a) to (c), 58 Stat. 740; Aug. 11, 1955, ch. 785, title III, §307, 69 Stat. 665; July 26, 1956, ch. 741, title I, §108, 70 Stat. 667; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for allocation of administrative expenses rendered each year by Farm Credit Administration. See section 2250 of this title.

Section 833, act Sept. 21, 1944, ch. 412, title VI, §602, 58 Stat. 741, authorized purchase of manuscripts, data, and special reports by Farm Credit Administration.

APPLICATIONS FOR FARM-LOAN BONDS

§§841 to 844. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 841, act July 17, 1916, ch. 245, title I, §18, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933, provided for application for farm loan bonds. See section 2154 of this title.

Section 842, act July 17, 1916, ch. 245, title I, §18, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933, provided for investigation and appraisal of securities tendered. See section 2154 of this title.

Section 843, act July 17, 1916, ch. 245, title I, §18, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933, provided for transmission of decisions to land bank and registrar.

Section 844, act July 17, 1916, ch. 245, title I, §18, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933, required Farm Credit Administration to execute a writing when approving a farm-loan bond issue.

ISSUE OF FARM-LOAN BONDS

§§851 to 857. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 851, act July 17, 1916, ch. 245, title I, §19, 39 Stat. 376; Ex. Ord. No. 6084, Mar. 27, 1933, set out duties of farm-loan registrar on approval of a bond issue.

Section 852, act July 17, 1916, ch. 245, title I, §19, 39 Stat. 376; Ex. Ord. No. 6084, Mar. 27, 1933, covered return of collateral security whenever Farm Credit Administration rejects entirely an application for an issue of farm-loan bonds.

Section 853, act July 17, 1916, ch. 245, title I, §19, 39 Stat. 376; Ex. Ord. No. 6084, Mar. 27, 1933, provided for disposition of security on approval of an application for issue of farm-loan bonds.

Section 854, acts July 17, 1916, ch. 245, title I, §19, 39 Stat. 376; Mar. 4, 1933, ch. 270, §6(a), 47 Stat. 1549; Ex. Ord. No. 6084, Mar. 27, 1933, set out conditions for mortgages eligible as collateral.

Section 855, act July 17, 1916, ch. 245, title I, §19, 39 Stat. 376, set out duties of farm loan registrars and authorized receipt of United States bonds or cash in lieu of mortgages withdrawn.

Section 856, act July 17, 1916, ch. 245, title I, §19, 39 Stat. 376; Ex. Ord. No. 6084, Mar. 27, 1933, authorized Farm Loan Administration to call on any farm loan bank for additional security to protect the bonds issued by it.

Section 857, act July 17, 1916, ch. 245, title I, §19 (par.), as added Mar. 4, 1933, ch. 270, §6(b), 47 Stat. 1549; amended June 30, 1945, ch. 204, §8, 59 Stat. 268, covered deposit of acceptable collateral security with farm loan registrar.

FORM OF FARM LOAN BONDS

§§861 to 864. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 861, acts July 17, 1916, ch. 245, title I, §20, 39 Stat. 377; Apr. 20, 1920, ch. 154, §5, 41 Stat. 571; Mar. 4, 1921, ch. 151, 41 Stat. 1362; Aug. 13, 1921, ch. 63, 42 Stat. 159; Ex. Ord. No. 6084, Mar. 27, 1933; June 30, 1945, ch. 204, §9, 59 Stat. 268; Aug. 18, 1958, Pub. L. 86-168, title I, §104(b), 73 Stat. 386, authorized issuance of farm loan bonds in amount, denominations, and terms as Farm Credit Administration authorized. See section 2153 of this title.

Section 862, act July 17, 1916, ch. 245, title I, §20, 39 Stat. 377; Ex. Ord. No. 6084, Mar. 27, 1933, directed the Farm Credit Administration to prescribe rules and regulations concerning circumstances and manner in which farm loan bonds shall be paid and retired. See section 2153 of this title.

Section 863, act July 17, 1916, ch. 245, title I, §20, 39 Stat. 377, directed that farm loan bonds be delivered through registrar of the district to bank applying for them.

Section 864, acts July 17, 1916, ch. 245, title I, §20, 39 Stat. 377; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(b), 73 Stat. 386, covered preparation of bonds, custody of plates and dies, exchange for registered bonds, and reexchange for coupons.

SPECIAL PROVISIONS OF FARM LOAN BONDS

§§871 to 886. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 871, act July 17, 1916, ch. 245, title I, §21, 39 Stat. 377; Ex. Ord. No. 6084, Mar. 27, 1933, provided that land banks be bound by the acts of officers and Farm Credit Administration in issue of bonds.

Section 872, act July 17, 1916, ch. 245, title I, §21, 39 Stat. 377; Ex. Ord. No. 6084, Mar. 27, 1933, covered liability of each land bank for bonds issued by it and by other land banks.

Section 873, act July 17, 1916, ch. 245, title I, §21, 39 Stat. 377, directed that board of directors of each land bank obligate each such bank to become liable on farm loan bonds.

Section 874, acts July 17, 1916, ch. 245, title I, §21, 39 Stat. 377; Apr. 20, 1920, ch. 154, §6, 41 Stat. 571; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VII, §75(b), title VIII, §80(a), 48 Stat. 271, 273; June 30, 1945, ch. 204, §10(a), 59 Stat. 268, provided for signing and attesting of bonds and certificate of Land Bank Commissioner.

Section 875, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476, authorized consolidation of bonds and their sale through a common selling agency.

Section 876, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476; amended June 16, 1933, ch. 98, title VIII, §§80(a), 81, 48 Stat. 273, provided for signature and attestation of bonds, joint and several obligations, and recitals.

Section 877, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476, directed that consolidated bonds be made payable at any land bank and authorized provisions making them payable at Federal reserve banks or other designated banks as well.

Section 878, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476; amended Mar. 4, 1925, ch. 524, §6, 43 Stat. 1264; June 16, 1933, ch. 98, title VIII, §§80(a), 81, 48 Stat. 273, directed that land banks on whose behalf consolidated bonds are issued be bound by acts of Land Bank Commissioner and any deputy land bank commissioner.

Section 879, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476; amended June 16, 1933, ch. 98, title VIII, §§80(a), 81, 48 Stat. 273, directed that boards of directors of land banks, before participating in a consolidated issue, obligate such banks to be liable on farm loan bonds and to be bound by action of Land Bank Commissioner and any deputy land bank commissioner.

Section 880, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476; amended Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VII, §75(b), title VIII, §80(a), 48 Stat. 271, 273; June 30, 1945, ch. 204 §10(b), 59 Stat. 269, covered certificate of Land Bank Commissioner appearing on face of every farm loan bond issued.

Section 881, act July 17, 1916, ch. 245, title I, §21, 39 Stat. 377; Mar. 4, 1923, ch. 252, title VIII, §308, 42 Stat. 1476; Mar. 4, 1933, ch. 270, §7, 47 Stat. 1550; Ex. Ord. No. 6084, Mar. 27, 1933, covered special

provisions of farm loan bonds, consolidated bonds, the participation of land banks in their issuance, and collateral.

Section 882, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476; amended Ex. Ord. No. 6084, Mar. 27, 1933, covered action to be taken upon failure of a participating bank to pay interest or principal.

Section 883, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476; amended Aug. 19, 1937, ch. 704, §18, 50 Stat. 709, covered bond committee of Federal land banks and acts of such committee in conducting its business.

Section 884, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476; amended Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, §§80(a), 81, 48 Stat. 273, set out duties of bond committee on contemplation of an issue of consolidated bonds.

Section 885, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476, covered proper charging of expenses of bond committee and of sale of bonds.

Section 886, act July 17, 1916, ch. 245, title I, §21 (par.), as added Mar. 4, 1923, ch. 252, title III, §308, 42 Stat. 1476, provided for compensation of members of bond committee.

APPLICATION OF AMORTIZATION AND INTEREST PAYMENTS

§§891 to 899. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 891, acts July 17, 1916, ch. 245, title I, §22, 39 Stat. 378; Oct. 29, 1949, ch. 786, §4, 63 Stat. 986, covered payments on mortgages pledged as collateral for a bond issue, notice to farm-loan registrar, and cancellation of mortgage and discharge of lien on full payment.

Section 892, act July 17, 1916, ch. 245, title I, §22, 39 Stat. 378, covered withdrawal of collateral and substitution of other security.

Section 893, act July 17, 1916, ch. 245, title I, §22, 39 Stat. 378; Ex. Ord. No. 6084, Mar. 27, 1933, provided for place and mode of payment of bonds or interest thereon and cancellation of payment.

Section 894, act July 17, 1916, ch. 245, title I, §22, 39 Stat. 378, provided for withdrawal of collateral security on surrender of bonds.

Section 895, act July 17, 1916, ch. 245, title I, §22, 39 Stat. 378, covered interest payments on pledged securities.

Section 896, act July 17, 1916, ch. 245, title I, §22, 39 Stat. 378, provided for payment of bonds, coupons, and interest at maturity.

Section 897, acts July 17, 1916, ch. 245, title I, §22, 39 Stat. 378; Mar. 4, 1923, ch. 252, title III, §309, 42 Stat. 1477; Jan. 31, 1934, ch. 7, §8(b), 48 Stat. 347; Aug. 19, 1937, ch. 704, §§5(a), 15(c), 50 Stat. 704, 708; Oct. 4, 1961, Pub. L. 87-353, §3(i), 75 Stat. 774, provided for a trust fund from payments on mortgages held as collateral.

Section 898, act July 17, 1916, ch. 245, title I, §22, 39 Stat. 378, covered deposit of trust funds with registrars as substituted collateral security.

Section 899, act July 17, 1916, ch. 245, title I, §22, 39 Stat. 378, covered notice to registrars of dispositions of principal payments on mortgages held as collateral and transfer to registrar on demand.

RESERVES AND DIVIDENDS OF LAND BANKS

§§901 to 903. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 901, acts July 17, 1916, ch. 245, title I, §23, 39 Stat. 379; Jan. 23, 1932, ch. 9, §3(a), 47 Stat. 13; Aug. 11, 1955, ch. 785, title III, §306(a), 69 Stat. 665; Aug. 18, 1959, Pub. L. 86-168, title I, §104(c), 73 Stat. 386, provided for amount to be carried in reserve accounts, withdrawal of excess, and restoration of

impairment. See section 2051 of this title.

Section 902, acts July 17, 1916, ch. 245, title I, §23, 39 Stat. 379; Jan. 23, 1932, ch. 9, §3(a), (b), 47 Stat. 13; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title III, §306(a), 69 Stat. 665, authorized declaration of dividends on balance of net earnings and investment of reserves. See section 2051 et seq. of this title.

Section 903, act July 17, 1916, ch. 245, title I, §23 (par.), as added Aug. 6, 1953, ch. 335, §10, 67 Stat. 395, provided for payment of franchise tax before dividends. See section 2051 of this title.

RESERVE AND DIVIDENDS OF FEDERAL LAND BANK ASSOCIATIONS

§§911 to 915. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 911, acts July 17, 1916, ch. 245, title I, §24, 39 Stat. 379; Jan. 23, 1932, ch. 9, §4, 47 Stat. 13; Aug. 11, 1955, ch. 785, title III, §306(b), 69 Stat. 665; Aug. 18, 1959, Pub. L. 86–168, title I, §104(d), (h), 73 Stat. 386, 387, provided for amount to be carried in reserve account by land bank associations. See section 2052 of this title.

Section 912, acts July 17, 1916, ch. 245, title I, §24, 39 Stat. 379; Jan. 23, 1932, ch. 9, §4, 47 Stat. 13, covered making good of any impairment of reserve before payment of any dividends.

Section 913, acts July 17, 1916, ch. 245, title I, §24, 39 Stat. 379; Jan. 23, 1932, ch. 9, §4, 47 Stat. 13; June 3, 1935, ch. 164, §4, 49 Stat. 315, provided for payment of dividends by land bank associations on balance of net earnings. See section 2052 of this title.

Section 914, act July 17, 1916, ch. 245, title I, §24, 39 Stat. 379; Ex. Ord. No. 6084, Mar. 27, 1933, covered investment of reserves of land bank associations.

Section 915, act July 17, 1916, ch. 245, title I, §24, 39 Stat. 379, provided for disposition of reserves on liquidation of land bank associations.

DEFAULTED FARM LOANS

§921. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, title I, §25, 39 Stat. 380; Mar. 4, 1923, ch. 252, title III, §310, 42 Stat. 1477; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, provided for notice to indorsing association in event of a default on a mortgage held by a land bank and for making good of such default by association.

EXEMPTION FROM TAXATION

§931. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, title I, §26, 39 Stat. 380; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, exempted land banks and land bank associations from taxation and directed that mortgages and bonds be deemed instrumentalities of government. See section 2055 of this title.

§931a. Omitted

EDITORIAL NOTES

CODIFICATION

Provisions of this section, act May 28, 1938, ch. 289, §817, 52 Stat. 578, were incorporated as section 3799 of Title 26 (I.R.C. 1939). See section 76 of Title 26, Internal Revenue Code.

§§932, 933. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 932, act July 17, 1916, ch. 245, title I, §26, 39 Stat. 380, covered joint-stock land banks and limitations on state taxation of shares thereof.

Section 933, acts July 17, 1916, ch. 245, title I, §26, 39 Stat. 380; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, prohibited a construction of statute which might serve to render exempt real property of land banks and land bank associations from state, county, or municipal taxes.

INVESTMENT IN FARM-LOAN BONDS

§§941 to 943. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 941, act July 17, 1916, ch. 245, title I, §27, 39 Stat. 380, directed that farm-loan bonds be deemed lawful investments for all fiduciary and trust funds.

Section 942, act July 17, 1916, ch. 245, title I, §27, 39 Stat. 380, covered buying and selling of farm-loan bonds by member banks of the Federal reserve system.

Section 943, act July 17, 1916, ch. 245, title I, §27, 39 Stat. 380, covered additional purchases and sales by Federal reserve banks.

EXAMINATIONS

§§951, 952. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 951, acts July 17, 1916, ch. 245, title I, §28, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §20, 50 Stat. 710, provided for appointment of farm credit examiners.

Section 952, acts July 17, 1916, ch. 245, title I, §28, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273; Aug. 19, 1937, ch. 704, §20, 50 Stat. 710; July 12, 1943, ch. 215, 57 Stat. 424; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, covered requirements, responsibilities, and penalties applicable to examiners, and made provision for examinations and reports.

§953. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 643

Section, act July 17, 1916, ch. 245, title I, §28, 39 Stat. 381, related to salaries of Farm credit examiners.

RECEIVERS AND CONSERVATORS

§§961 to 963. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 961, acts July 17, 1916, ch. 245, title I, §29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §5(a), 50 Stat. 704; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, covered institution and conduct of receiverships for land bank associations and duties and powers of receivers.

Section 962, act July 17, 1916, ch. 245, title I, §29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933, covered the disposition of moneys collected by receivers and reports to be made thereon.

Section 963, acts July 17, 1916, ch. 245, title I, §29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for institution and conduct of receiverships for federal and joint-stock land banks.

§963a. Repealed. June 30, 1947, ch. 166, title II, §206(c), 61 Stat. 208

Section, act May 12, 1933, ch. 25, §27, 48 Stat. 45, related to authorization of receiver to borrow money for paying taxes on real estate.

§§964 to 966. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 964, acts July 17, 1916, ch. 245, title I, §29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; July 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for disposition of land bank association's stock in land bank on declaration of insolvency and appointment of receiver for association.

Section 965, acts July 17, 1916, ch. 245, title I, §29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, required written consent from Farm Credit Administration for a land bank, land bank association, or joint stock land bank to go into voluntary liquidation.

Section 966, act July 17, 1916, ch. 245, title I, §29 (par.), as added Mar. 4, 1923, ch. 252, title III, §311, 42 Stat. 1748, and amended Aug. 18, 1959, Pub. L. 86-168, title I, §104(h), 73 Stat. 387, provided for disposition of a land bank association's stock in land bank on voluntary liquidation of an association and for personal liability of members.

DISSOLUTION AND APPOINTMENT OF RECEIVERS

§967. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, §29 (pars.), as added Aug. 19, 1937, ch. 704, §25(d), 50 Stat. 713; amended Aug. 18, 1959, Pub. L. 86-168, title I, §104(e), (h), 73 Stat. 386, 387, provided for a conservator in lieu of a receiver for land bank associations which have failed to meet their outstanding obligations.

STATE LEGISLATION IMPAIRING SECURITY OF FARM LOANS

§§971 to 973. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 971, acts July 17, 1916, ch. 245, title I, §30, 39 Stat. 382; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273, directed Land Bank Commissioner to make examination of State legislation which might impair the security of farm loans.

Section 972, acts July 17, 1916, ch. 245, title I, §30, 39 Stat. 382; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273, authorized Farm Credit Administration to declare first

mortgages on farm lands ineligible as basis for an issue of farm loan bonds.

Section 973, act July 17, 1916, ch. 245, title I, §30, 39 Stat. 382; Ex. Ord. No. 6084, Mar. 27, 1933, authorized Farm Credit Administration to prepare a statement for chief executive of any state setting forth in what respects requirement of Administration cannot be complied with under existing State laws.

PENALTIES

§§981 to 987. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 981, acts July 17, 1916, ch. 245, title I, §31, 39 Stat. 382; June 3, 1935, ch. 164, §21, 49 Stat. 319, related to false statements in applications for loans. See section 1014 of Title 18, Crimes and Criminal Procedure.

Section 982, act July 17, 1916, ch. 245, title I, §31, 39 Stat. 382, related to counterfeiting bonds or coupons. See section 493 of Title 18.

Section 983, act July 17, 1916, ch. 245, title I, §31, 39 Stat. 382, related to charging or receiving unauthorized fees or commissions. See sections 216 and 1907 of Title 18.

Section 984, act July 17, 1916, ch. 245, title I, §31, 39 Stat. 382, related to fraud and embezzlement. See sections 657 and 1006 of Title 18.

Section 985, act July 17, 1916, ch. 245, title I, §31, 39 Stat. 382, related to false pretenses as to character of bonds or coupons. See section 1013 of Title 18.

Section 986, act July 17, 1916, ch. 245, title I, §31, 39 Stat. 382, related to detection and arrest of violators. See section 3056 of Title 18.

Section 987, act July 17, 1916, ch. 245, title I, §31 (par.), as added June 16, 1933, ch. 98, title VII, §78, 48 Stat. 272, related to false statements by mortgagee. See section 1011 of Title 18.

GOVERNMENT DEPOSITS IN LAND BANKS

§991. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, §32, 39 Stat. 384; Ex. Ord. No. 6084, Mar. 27, 1933, covered government deposits in land banks, interest rate, security, and maximum amounts.

§§992 to 993. Repealed. Pub. L. 87-353, §3(a), (w), Oct. 4, 1961, 75 Stat. 773, 774

Section 992, act July 17, 1916, ch. 245, §32 (par.), as added May 12, 1933, ch. 25, title II, §21, 48 Stat. 41; amended June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273, related to Government guaranty of interest on qualified Federal land bank bonds issued during limited period, use of proceeds of such bonds, limitation on aggregate amount of such bonds, payment of interest by Government on inability of issuing bank and rights of Government after such payment.

Section 992a, act Jan. 31, 1934, ch. 7, §5, 48 Stat. 346, prohibited any Federal land bank, ninety days after January 31, 1934, from issuing any bonds under provisions of section 992 of this title, subject to guarantee of interest on such bonds by United States except for purpose of refinancing any bond which was or had been issued subject to such guarantee of interest.

Section 993, act July 17, 1916, ch. 245, §32 (par.), as added May 12, 1933, ch. 25, title II, §21, 48 Stat. 41, related to delivery of bonds issued under section 992 of this title in payment of certain mortgages.

ORGANIZATION EXPENSES

§1001. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, §33, 39 Stat. 384, appropriated \$100,000 for carrying this chapter into effect.

LIMITATION OF COURT DECISIONS

§1011. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, §34, 39 Stat. 384, set limits on effects of any court decisions respecting validity of provisions of act July 17, 1916, ch. 245, 39 Stat. 360.

AMENDMENTS TO CHAPTER

§1012. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, §35, 39 Stat. 384, reserved to Congress the right to amend, alter, or repeal former subchapter I or III of this chapter.

**SUBCHAPTER II—LOANS TO FARMERS BY LAND BANK
COMMISSIONER**

§1016. Repealed and Omitted

EDITORIAL NOTES

CODIFICATION

Section (except subsec. (h)), acts May 12, 1933, ch. 25, title II, §32, 48 Stat. 48; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273; Jan. 31, 1934, ch. 7, §§9, 10, 48 Stat. 347; June 11, 1934, ch. 446, 48 Stat. 929; May 28, 1935, ch. 150, §32, 49 Stat. 300; June 3, 1935, ch. 164, §2, 49 Stat. 313; July 22, 1937, ch. 516, §2, 50 Stat. 521; Aug. 19, 1937, ch. 704, §§13, 14, 50 Stat. 708; June 16, 1938, ch. 462, §2, 52 Stat. 709; Feb. 1, 1940, ch. 19, 54 Stat. 19; June 29, 1940, ch. 441, §1, 54 Stat. 684; June 3, 1942, ch. 321, 56 Stat. 306; June 27, 1942, ch. 449, §2, 56 Stat. 392; June 26, 1943, ch. 146, 57 Stat. 196; June 30, 1944, ch. 329, 58 Stat. 646; June 30, 1945, ch. 204, §§11–13, 59 Stat. 269; July 12, 1946, ch. 570, §1, 60 Stat. 532; June 30, 1947, ch. 166, title II, §206(h), 61 Stat. 208; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387; Oct. 4, 1961, Pub. L. 87–353, §3(b), 75 Stat. 773, related to general provisions governing loans to farmers by Land Bank Commission, prior to repeal by Pub. L. 87–353, §3(b), Oct. 4, 1961, 75 Stat. 773.

Subsec. (h) provided: "Any instrument heretofore or hereafter executed on behalf of the Land Bank Commissioner and/or the Federal Farm Mortgage Corporation by a Federal land bank, through its duly authorized officers, shall be conclusively presumed to have been duly authorized by the Land Bank Commissioner and the Federal Farm Mortgage Corporation."

§§1017 to 1019. Repealed. Pub. L. 87–353, §3(b), Oct. 4, 1961, 75 Stat. 773

Section 1017, acts May 12, 1933, ch. 25, title II, §33, 48 Stat. 49; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273, authorized Land Bank Commissioner to make rules and regulations and to appoint, employ and

fix compensation of officers, employees, attorneys and agents.

Section 1018, acts May 12, 1933, ch. 25, title II, §34, 48 Stat. 49; June 16, 1933, ch. 98, title VIII, §80(a), 48 Stat. 273, related to making available to Land Bank Commissioner of facilities of Federal land banks and Federal land bank associations.

Section 1019, act May 12, 1933, ch. 25, title II, §35, 48 Stat. 49, prescribed a penalty of not more than \$1,000 fine or six months' imprisonment or both for false representations in obtaining loan.

SUBCHAPTER II—A—FEDERAL FARM MORTGAGE CORPORATION

§§1020 to 1020a—1. Repealed. Pub. L. 87—353, §3(a), (v), Oct. 4, 1961, 75 Stat. 773, 774

Section 1020, act Jan. 31, 1934, ch. 7, §1, 48 Stat. 344, provided for establishment of Federal Farm Mortgage Corporation, and for board of directors, bylaws, regulations and employment of officers and employees.

Section 1020a, act Jan. 31, 1934, ch. 7, §2, 48 Stat. 345, related to period of succession of Federal Farm Mortgage Corporation, its powers, free use of mails and use of Government facilities.

Section 1020a—1, act Sept. 21, 1944, ch. 412, title VI, §603, 58 Stat. 741, provided for treatment of capital investment expenditures as nonadministrative expenses.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ABOLITION OF FEDERAL FARM MORTGAGE CORPORATION

Pub. L. 87—353, §§1, 2, Oct. 4, 1961, 75 Stat. 773, abolished Federal Farm Mortgage Corporation established by the Act of Jan. 31, 1934, 48 Stat. 344, formerly set out in section 1020 of this title, terminated all powers and functions of Corporation, transferred all assets owned by Corporation and all authority of the Corporation relating to collection of notes receivable from Federal land banks to Secretary of the Treasury, authorized Federal land bank of appropriate district to execute in its own name or the name of Corporation any instrument necessary to perfect title to real property (other than reserved mineral interests) which appeared to be in Land Bank Commissioner in a particular district or Corporation, reserved mineral interests of Corporation which were not disposed of to United States of America to be administered by Secretary of the Interior, provided that any moneys collected by Secretary of the Treasury by virtue of act be deposited in general fund of the Treasury as miscellaneous receipts and further provided that no proceeding commenced by or against the Corporation would abate as the court on motion filed within twelve months after the date of enactment of the act (Oct. 4, 1961) could allow the same to be maintained by or against Secretary of the Treasury.

§§1020a—2, 1020a—3. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1020a—2, act June 4, 1956, ch. 355, title IV, 70 Stat. 239, which related to maximum amounts available for administrative expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts.

Section 1020a—3, Pub. L. 87—112, title IV, July 26, 1961, 75 Stat. 240, which limited the aggregate amount of bonds issued and outstanding, was from the Department of Agriculture and Related Agencies Appropriation Act, 1962, and was not repeated in subsequent appropriations acts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions to section 1020a-2 of this title were contained in the following acts:

May 23, 1955, ch. 43, title IV, 69 Stat. 62.
June 29, 1954, ch. 409, title IV, 68 Stat. 317.
July 28, 1953, ch. 251, title II, 67 Stat. 222.
July 5, 1952, ch. 574, title II, 66 Stat. 353.
Aug. 31, 1951, ch. 374, title III, 65 Stat. 245.
Sept. 6, 1950, ch. 896, Ch. VI, title II, 64 Stat. 677.
June 29, 1949, ch. 280, title II, 63 Stat. 346, 347.

Similar provisions to section 1020a-3 of this title were contained in the following acts:

June 29, 1960, Pub. L. 86-532, title III, 74 Stat. 244.
July 8, 1959, Pub. L. 86-80, title III, 73 Stat. 179.
June 13, 1958, Pub. L. 85-459, title III, 72 Stat. 199.
Aug. 2, 1957, Pub. L. 85-118, title IV, 71 Stat. 339.

§§1020b, 1020c. Repealed. Pub. L. 87-353, §3(a), Oct. 4, 1961, 75 Stat. 773

Section 1020b, acts Jan. 31, 1934, ch. 7, §3, 48 Stat. 345; June 25, 1940, ch. 427, §4, 54 Stat. 573; June 30, 1945, ch. 204, §14, 59 Stat. 269; July 12, 1946, ch. 570, §2, 60 Stat. 532, prescribed the capital of the Federal Farm Mortgage Corporation to be in the sum of \$200,000,000 and provided for subscription by the United States and repayment by the Corporation.

Section 1020c, acts Jan. 31, 1934, ch. 7, §4(a), 48 Stat. 345; Apr. 27, 1934, ch. 168, §14, 48 Stat. 647, authorized the issuance of bonds not exceeding \$2,000,000,000 at any one time and provided for purchase and sale by United States and exchange of such bonds for consolidated farm loan bonds.

§1020c-1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act June 4, 1956, ch. 355, title IV, 70 Stat. 240, which limited the aggregate amount of bonds issued and outstanding, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions to section 1020c-1 of this title were contained in the following acts:

May 23, 1955, ch. 43, title IV, 69 Stat. 62.
June 29, 1954, ch. 409, title IV, 68 Stat. 318.
July 28, 1953, ch. 251, title II, 67 Stat. 222.
July 5, 1952, ch. 574, title II, 66 Stat. 353.
Aug. 31, 1951, ch. 374, title III, 65 Stat. 244.
Sept. 6, 1950, ch. 896, Ch. VI, title II, 64 Stat. 678.
June 29, 1949, ch. 280, title II, 63 Stat. 347.
June 30, 1948, ch. 773, title II, 62 Stat. 1191.

§§1020d to 1020h. Repealed. Pub. L. 87-353, §3(a), Oct. 4, 1961, 75 Stat. 773

Section 1020d, acts Jan. 31, 1934, ch. 7, §4(b), 48 Stat. 346; Aug. 19, 1937, ch. 704, §§2, 4, 50 Stat. 703; June 30, 1945, ch. 204, §15, 59 Stat. 269, provided for the purchase of consolidated farm loan bonds, loans to Federal and joint-stock land banks, investment in mortgages, extensions, and sale and assignment of notes and

mortgages.

Section 1020e, act Jan. 31, 1934, ch. 7, §4(c), 48 Stat. 346, related to preparation of bonds.

Section 1020f, acts Jan. 31, 1934, ch. 7, §12, 48 Stat. 347; Feb. 26, 1934, ch. 33, 48 Stat. 360, provided for exemptions from taxation.

Sections 1020g, 1020h, act Jan. 31, 1934, ch. 7, §§17, 18, 48 Stat. 348, 349, related to the severability clause and reservation of right to amend, and short title, respectively.

SUBCHAPTER II—B—LOANS TO FARMERS BY GOVERNOR OF FARM CREDIT ADMINISTRATION

§§1020i to 1020n. Repealed. Aug. 14, 1946, ch. 964, §2(a)(2), 60 Stat. 1062

Sections 1020i to 1020n, act Jan. 29, 1937, ch. 7, §§1–6, 50 Stat. 5, provided for loans to farmers by the Governor of the Farm Credit Administration for production and harvesting of crops, feed for livestock and other related purposes.

§1020n–1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, acts June 30, 1939, ch. 253, title II, 53 Stat. 979; June 25, 1940, ch. 421, 54 Stat. 569; July 1, 1941, ch. 267, 55 Stat. 444; July 22, 1942, ch. 516, 56 Stat. 701, related to the personal liability of Federal employees approving loans fraudulently obtained under sections 1020i to 1020n and 1020o of this title, which were repealed by act Aug. 14, 1946, ch. 964, §2(a)(2), 60 Stat. 1062.

§1020o. Repealed. Aug. 14, 1946, ch. 964, §2(a)(2), 60 Stat. 1062

Section, act Jan. 29, 1937, ch. 7, §7, 50 Stat. 7, related to appropriations and expenditures for loans under sections 1020i to 1020n of this title.

SUBCHAPTER III—FEDERAL INTERMEDIATE CREDIT BANKS

EDITORIAL NOTES

CODIFICATION

Provisions of this subchapter concerning Federal intermediate credit banks constituted title II of the Federal Farm Loan Act, act July 17, 1916, ch. 245, 39 Stat. 360, as added to that act by act Mar. 4, 1923, ch. 252, title I, 42 Stat. 1454. The Federal Farm Loan Act was repealed by Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624.

This subchapter formerly constituted chapter 8 of this title.

ORGANIZATION

§§1021 to 1023. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1021, act July 17, 1916, ch. 245, title II, §201(a), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1454; amended Ex. Ord. No. 6084, Mar. 27, 1933, authorized the Farm Credit Administration to grant charters for 12 intermediate credit banks. See section 2071 of this title.

Section 1022, act July 17, 1916, ch. 245, title II, §201 (b), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1454; amended June 16, 1933, ch. 98, title VII, §76(a), 48 Stat. 271; Aug. 19, 1937, ch. 704, §10, 50 Stat. 707; July 26, 1956, ch. 741, title I, §104(a), 70 Stat. 663, covered the location, directors, officers, employees, and by-laws of intermediate credit banks. See section 2072 of this title.

Section 1023, act July 17, 1916, ch. 245, title II, §201(c), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1454; amended Aug. 19, 1937, ch. 704, §26, 50 Stat. 715, set out the corporate powers of intermediate credit banks. See section 2072 of this title.

§1023a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 85–459, title III, June 13, 1958, 72 Stat. 199, which related to availability of funds for administrative expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959, and was not repeated in subsequent appropriation acts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Aug. 2, 1957, Pub. L. 85–118, title IV, 71 Stat. 339.

June 4, 1956, ch. 355, title IV, 70 Stat. 240.

May 23, 1955, ch. 43, title IV, 69 Stat. 62.

June 29, 1954, ch. 409, title IV, 68 Stat. 318.

July 28, 1953, ch. 251, title II, 67 Stat. 222.

July 5, 1952, ch. 574, title II, 66 Stat. 353.

Aug. 31, 1951, ch. 374, title III, 65 Stat. 244.

Sept. 6, 1950, ch. 896, Ch. VI, title II, 64 Stat. 678.

June 29, 1949, ch. 280, title II, 63 Stat. 346, 347.

§§1023b to 1027. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1023b, act July 26, 1956, ch. 741, title II, §201(b), 70 Stat. 667, provided for utilization of funds for administrative expenses of intermediate credit banks.

Section 1024, act July 17, 1916, ch. 245, title II, §201(d), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1454, authorized intermediate credit banks to serve as fiscal agents for the United States.

Section 1025, act July 17, 1916, ch. 245, title II, §201(e), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1454; amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86–168, title I, §104(h), 73 Stat. 387, covered insolvency and receivership of intermediate credit banks.

Section 1026, act July 17, 1916, ch. 245, title II, §201(f), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1454; amended Ex. Ord. No. 6084, Mar. 27, 1933, provided for grant of charters to intermediate credit banks upon application in form prescribed by Farm Credit Administration.

Section 1027, act July 26, 1956, ch. 741, title I, §101(a) to (c), 70 Stat. 659, covered merger of production credit corporations in Federal intermediate credit banks.

Section 1027 note, act July 26, 1956, ch. 741, §2, 70 Stat. 659, set out a Congressional declaration of policy to be followed in construing provisions of act July 26, 1956.

DISCOUNTS AND LOANS

§§1031 to 1033. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1031, act July 17, 1916, ch. 245, title II, §202(a), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1455; amended Mar. 4, 1925, ch. 524, §7, 43 Stat. 1264; June 26, 1930, ch. 616, §1, 46 Stat. 816; May 19, 1932, ch. 191, §1, 47 Stat. 159; June 16, 1933, ch. 98, title VII, §76(b), (c), 48 Stat. 271; Ex. Ord. No. 6084, Mar. 27, 1933; June 3, 1935, ch. 164, §5(a), (b), 49 Stat. 315; July 26, 1956, ch. 741, title I, §104(b), 70 Stat. 663; Oct. 4, 1965, Pub. L. 89–237, §1(a), 79 Stat. 922; Aug. 2, 1966, Pub. L. 89–525, §3(a), 80 Stat. 334, set out lending powers of intermediate credit banks. See section 2074 of this title.

Section 1032, act July 17, 1916, ch. 245, title II, §202(b), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1455, placed a limitation on amount of purchases by intermediate credit banks for national banks, State banks, trust companies, or saving institutions.

Section 1033, act July 17, 1916, ch. 245, title II, §202(c), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1455; amended June 26, 1930, ch. 616, §2, 46 Stat. 816; July 26, 1956, ch. 741, title I, §104(c), 70 Stat. 664; Aug. 18, 1959, Pub. L. 86–168, title I, §104(f), 73 Stat. 386; Oct. 3, 1961, Pub. L. 87–343, §1(b), 75 Stat. 758, covered maturity, sale, and purchase of loans, advances, and discounts of intermediate credit banks.

§1034. Repealed. June 3, 1935, ch. 164, §5(c), 49 Stat. 315

Section, act July 17, 1916, ch. 245, title II, §202(d), as added act Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1456, related to interest and discount charges and rediscount of paper of other intermediate credit banks.

ISSUE OF DEBENTURES

§§1040 to 1045. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1040, act Aug. 19, 1937, ch. 704, §39, 50 Stat. 718, defined "debenture" and "debentures" as used in purchase, sale, or use as security of debentures issued by or for benefit of intermediate credit banks.

Section 1041, act July 17, 1916, ch. 245, title II, §203(a), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1456; amended Ex. Ord. No. 6084, Mar. 27, 1933; June 3, 1935, ch. 164, §6(a), 49 Stat. 315; Aug. 19, 1937, ch. 704, §27, 50 Stat. 715; July 26, 1956, ch. 741, title I, §104(f), 70 Stat. 664; Oct. 4, 1965, Pub. L. 89–237, §1(b), 79 Stat. 922; June 18, 1968, Pub. L. 90–345, §1(a), 82 Stat. 182, empowered intermediate credit banks to borrow money and issue and sell collateral trust debentures. See section 2074 of this title.

Section 1042, act July 17, 1916, ch. 245, title II, §203(b), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1456; amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §28, 50 Stat. 715; Sept. 20, 1966, Pub. L. 89–595, 80 Stat. 821, directed Farm Credit Administration to prescribe rules and regulations governing collateral and handling thereof and to fix interest rates.

Section 1043, act July 17, 1916, ch. 245, title II, §203(c), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1456; amended Ex. Ord. No. 6084, Mar. 27, 1933, prohibited assumption of liability on debentures or other obligations issued pursuant to former section 1041 of this title by the United States.

Section 1044, act July 17, 1916, ch. 245, title II, §203(d), as added June 3, 1935, ch. 164, §6(b), 49 Stat. 315; amended July 26, 1956, ch. 741, title I, §104(f), 70 Stat. 664, authorized intermediate credit banks to issue and sell consolidated debentures or other similar obligations.

Section 1045, act July 17, 1916, ch. 245, title II, §203(e), as added June 3, 1935, ch. 164, §6(b), 49 Stat. 316; amended July 26, 1956, ch. 741, title I, §104(f), 70 Stat. 664, covered investment of fiduciary and trust funds in debentures and other similar obligations of intermediate credit banks and security for public deposits.

DISCOUNT RATES

§§1051 to 1053. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1051, act July 17, 1916, ch. 245, title II, §204(a), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1456; amended Mar. 4, 1925, ch. 524, §2, 43 Stat. 1262; Ex. Ord. No. 6084, Mar. 27, 1933; June 3, 1935, ch. 164, §7, 49 Stat. 316; July 26, 1956, ch. 741, title I, §104(d), 70 Stat. 664, provided for discount rates to be charged by intermediate credit banks. See section 2075 of this title.

Section 1052, act July 17, 1916, ch. 245, title II, §204(b), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1456; amended Ex. Ord. No. 6084, Mar. 27, 1933, placed a limitation on interest rate charged original borrower on paper discounted with bank.

Section 1053, act July 17, 1916, ch. 245, title II, §204(c), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1456; amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §29, 50 Stat. 715, covered purchases by intermediate credit banks of debentures or other similar obligations issued by or for benefit of such bank or other intermediate credit banks.

CAPITAL STOCK AND PARTICIPATION CERTIFICATES

§§1061, 1062. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1061, act July 17, 1916, ch. 245, title II, §205, as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1457; amended May 19, 1932, ch. 191, §2, 47 Stat. 159; Ex. Ord. No. 6084, Mar. 27, 1933; Jan. 31, 1934, ch. 7, §15(b), (c), 48 Stat. 348; July 26, 1956, ch. 741, title I, §102, 70 Stat. 660; Oct. 4, 1965, Pub. L. 89–237, §1(c), 79 Stat. 922; June 18, 1968, Pub. L. 90–345, §1(b), 82 Stat. 183; Oct. 17, 1968, Pub. L. 90–582, §1, 82 Stat. 1145, provided for classes of stock, ownership, dividends, retirement of stock, liens, and participation certificates of intermediate credit banks. See section 2073 of this title.

Section 1062, act July 17, 1916, ch. 245, title II, §206(a), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1457; amended Mar. 4, 1925, ch. 524, §1, 43 Stat. 1262, provided for salaries and expenses of Federal Farm Loan Bureau and for assessments against banks for proportionate share of expense.

APPLICATION OF EARNINGS

§1072. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, §206(b), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1457; amended Mar. 4, 1925, ch. 524, §1, 43 Stat. 1262; May 19, 1932, ch. 191, §3, 47 Stat. 1459; Aug. 19, 1937, ch. 704, §30, 50 Stat. 715; July 26, 1956, ch. 741, title I, §103, 70 Stat. 662; Oct. 4, 1965, Pub. L. 89–237, §1(d), 79 Stat. 923; June 18, 1968, Pub. L. 90–345, §1(c), 82 Stat. 183, provided for application of net earnings of intermediate credit banks. See section 2077 of this title.

LIABILITY ON DEBENTURES OR OTHER SUCH OBLIGATIONS

§1081. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, §207, as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1458; amended May 19, 1932, ch. 191, §4, 47 Stat. 159; Ex. Ord. No. 6084, Mar. 27, 1933, covered liability of intermediate credit banks on debentures or other such obligations. See section 2074 of this title.

EXAMINATIONS AND REPORTS

§§1091 to 1095. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1091, act July 17, 1916, ch. 245, title II, §208(a), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1458; amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §20, 50 Stat. 710, authorized Comptroller of the Currency to furnish reports of condition of banks and other lending institutions rediscounting with intermediate credit banks and covered examinations and audit of credit banks.

Section 1092, act July 17, 1916, ch. 245, title II, §208(b), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1458; amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 2, 1966, Pub. L. 89–525, §3(b), 80 Stat. 334, authorized Farm Credit Administration to require reports from intermediate credit banks.

Section 1093, act July 17, 1916, ch. 245, title II, §208(c), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1458; amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §20, 50 Stat. 710; Aug. 18, 1959, Pub. L. 86–168, title I, §104(g), 73 Stat. 387, covered investigations and reports by farm credit appraisers and examiners.

Section 1094, act July 17, 1916, ch. 245, title II, §208(d), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1458; amended Ex. Ord. No. 6084, Mar. 27, 1933, authorized assessment of cost of investigations and examination against organization investigated.

Section 1095, act July 17, 1916, ch. 245, title II, §208(e), as added June 3, 1935, ch. 164, §8, 49 Stat. 316; amended Aug. 23, 1935, ch. 614, §203(a), 49 Stat. 704; Aug. 19, 1937, ch. 704, §31, 50 Stat. 716, provided for reports on condition of institutions receiving loans or deposits.

RULES AND REGULATIONS

§1101. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, §209, as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459; amended Ex. Ord. No. 6084, Mar. 27, 1933, authorized promulgation of rules and regulations by Farm Credit Administration covering operation of intermediate credit banks.

TAX EXEMPTION

§1111. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, §210, as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, set out a tax exemption for capital and income of intermediate credit banks and provided that their debentures be deemed instrumentalities of the government. See section 2079 of this title.

PENALTY PROVISIONS

§§1121 to 1128. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 1121, act July 17, 1916, ch. 245, title II, §211(a), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, related to offenses by officers, employees, or agents. See sections 657 and 1006 of Title 18, Crimes and Criminal Procedure.

Section 1122, act July 17, 1916, ch. 245, title II, §211(b), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, related to false statements to banks. See section 1014 of Title 18.

Section 1123, act July 17, 1916, ch. 245, title II, §211(c), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, related to overvaluation of property for loan purposes. See section 1014 of Title 18.

Section 1124, act July 17, 1916, ch. 245, title II, §211(d), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, related to offenses by examiners. See sections 1907 and 1909 of Title 18.

Section 1125, act July 17, 1916, ch. 245, title II, §211(e), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, related to offenses by officers, employees, and agents. See section 215 of Title 18.

Section 1126, act July 17, 1916, ch. 245, title II, §211(f), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, related to forgery and counterfeiting offenses. See section 493 of Title 18.

Section 1127, act July 17, 1916, ch. 245, title II, §211(g), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, related to false representations as to debentures, etc., of banks. See section 1013 of Title 18.

Section 1128, act July 17, 1916, ch. 245, title II, §211(h), as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1459, related to use of words "Federal intermediate credit bank". See section 709 of Title 18.

§1129. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, §212, as added Mar. 4, 1923, ch. 252, title I, §2, 42 Stat. 1461, prohibited unauthorized charging of fees or commissions by intermediate credit banks.

SUBCHAPTER IV—PRODUCTION CREDIT ASSOCIATIONS

§1131. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 648

Section, acts June 16, 1933, ch. 98, title I, §2, 48 Stat. 257; Aug. 19, 1937, ch. 704, §11, 50 Stat. 708, provided for establishment of twelve Production Credit Corporations, their locations and officers.

§1131a. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act June 16, 1933, ch. 98, title I, §3, 48 Stat. 257, provided for the granting of a charter to the Production Credit Corporation, and authorized the directors to adopt by-laws. Section 3 of act June 16, 1933, was amended by act July 26, 1956, ch. 741, title I, §105(b), 70 Stat. 665, to eliminate provisions relating to the Production Credit Corporation. Section 3 of act June 16, 1933, was classified in its entirety to section 1134a of this title.

§1131a–1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act June 4, 1956, ch. 355, title IV, 70 Stat. 240, which related to availability of funds for administrative expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

May 23, 1955, ch. 43, title IV, 69 Stat. 62.

June 29, 1954, ch. 409, title IV, 68 Stat. 318.

July 28, 1953, ch. 251, title II, 67 Stat. 222.

July 5, 1952, ch. 574, title II, 66 Stat. 353.

Aug. 31, 1951, ch. 374, title III, 65 Stat. 244.

Sept. 6, 1950, ch. 896, Ch. VI, title II, 64 Stat. 678.

June 29, 1949, ch. 280, title II, 63 Stat. 346, 347.

§1131b. Repealed. July 26, 1956, ch. 741, title I, §105(c), 70 Stat. 665

Section, act June 16, 1933, ch. 98, title I, §4, 48 Stat. 257, provided for capital stock of Production Credit Corporations, value of shares, amount and subscription for initial stock, and payments for stock subscribed on behalf of the United States.

§1131c. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 16, 1933, ch. 98, title I, §6, 48 Stat. 259; Aug. 6, 1953, ch. 335, §11, 67 Stat. 395; July 26, 1956, ch. 741, title I, §105(e), 70 Stat. 665; Oct. 17, 1968, Pub. L. 90–582, §2(a), 82 Stat. 1145, covered purchase of stock of production credit associations and payment, retirement, and cancellation of stock. See section 2094 of this title.

PRODUCTION CREDIT ASSOCIATIONS

§§1131d to 1131g. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1131d, acts June 16, 1933, ch. 98, title II, §20, 48 Stat. 259; July 26, 1956, ch. 741, title I, §105(f), 70 Stat. 665, authorized organization of production credit associations and provided for charters, bylaws, powers of governor, and other powers of such associations. See section 2093 of this title.

Section 1131e, acts June 16, 1933, ch. 98, title II, §21, 48 Stat. 260; Aug. 11, 1955, ch. 785, title II, §201, 69 Stat. 663; July 26, 1956, ch. 741, title I, §105(g), 70 Stat. 665, provided for capital stock of production credit associations and its value, classes, voting rights, limitations on transfer, exchange, and dividends. See section 2094 of this title.

Section 1131e–1, acts Aug. 6, 1953, ch. 335, §16, 67 Stat. 399; July 26, 1956, ch. 741, title I, §107(b), 70 Stat. 666; Oct. 17, 1968, Pub. L. 90–582, §2(b), 82 Stat. 1145, provided for issuance of class C stock for production credit associations and conditions, privileges, restrictions, limitations, and qualifications placed on such stock.

Section 1131f, acts June 16, 1933, ch. 98, title II, §22, 48 Stat. 261; Aug. 11, 1955, ch. 785, title II, §202, 69 Stat. 663; July 26, 1956, ch. 741, title I, §105(h), 70 Stat. 665; Oct. 3, 1961, Pub. L. 87–343, §2(2), 75 Stat. 758; Oct. 4, 1965, Pub. L. 89–237, §2(a), 78 Stat. 924, covered application of earnings of production credit associations and restoration of capital, impairment, surplus account, distribution of earnings, and allocation on a patronage basis. See section 2095 of this title.

Section 1131g, acts June 16, 1933, ch. 98, title II, §23, 48 Stat. 261; Aug. 11, 1955, ch. 785, title II, §204, 69 Stat. 663; July 26, 1956, ch. 741, title I, §105(i), 70 Stat. 665; Oct. 4, 1965, Pub. L. 89–237, §2(b), 79 Stat. 924; Dec. 15, 1967, Pub. L. 90–204, §3(a), 81 Stat. 612; June 18, 1968, Pub. L. 90–345, §2, 82 Stat. 183, authorized loans to farmers by production credit associations, terms and conditions, rates of interest, security, limitations on indebtedness, ownership of stock, and investments in equity reserve. See section 2096 of this title.

§1131g–1. Repealed. July 26, 1956, ch. 741, title I, §105(q), 70 Stat. 666

Section, act June 16, 1933, ch. 98, title VIII, §86a, as added June 27, 1934, ch. 847, title V, §504, 48 Stat. 1263, which was formerly designated section 1131gg of this title, authorized production credit associations to make loans to farmers for home alterations, repairs and improvements without purchase of class B stock, and permitted associations to sell, discount, assign, or otherwise dispose of such loans.

§§1131g–2, 1131h. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1131g–2, acts June 18, 1934, ch. 574, 48 Stat. 983; June 3, 1935, ch. 164, §17(c), 49 Stat. 318, provided for loans to oyster planters and purchase and discount of paper by intermediate credit banks.

Section 1131h, act June 16, 1933, ch. 98, title II, §24, 48 Stat. 261, covered borrowing from and rediscounting paper with intermediate credit banks and limitations on power to borrow from or rediscount paper with other institutions.

REVOLVING FUND

§1131i. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 16, 1933, ch. 98, title I, §5, 48 Stat. 258; Jan. 31, 1934, ch. 7, §§14, 15(a), 48 Stat. 348; July 26, 1956, ch. 741, title I, §105(d), 70 Stat. 665; Oct. 3, 1961, Pub. L. 87–343, §2(1), 75 Stat. 758, provided for a revolving fund for investment in production credit association and intermediate credit banks. See Revolving Funds note under section 2152 of this title.

§1131j. Transferred

EDITORIAL NOTES

CODIFICATION

Section, acts June 18, 1934, ch. 574, 48 Stat. 983; June 3, 1935, ch. 164, §17(c), 49 Stat. 318, transferred to section 1131g–2 of this title.

**SUBCHAPTER V—REGIONAL BANKS FOR COOPERATIVES AND
CENTRAL BANK FOR COOPERATIVES**

REGIONAL BANKS

§§1134 to 1134e. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1134, acts June 16, 1933, ch. 98 title I, §2, 48 Stat. 257; Aug. 19, 1937, ch. 704, §11, 50 Stat. 708; July 26, 1956, ch. 741, title I, §105(a), 70 Stat. 664, authorized creation of regional banks for cooperatives and establishment of boards of directors of such banks. See section 2121 of this title.

Section 1134a, acts June 16, 1933, ch. 98, title I, §3, 48 Stat. 257; July 26, 1956, ch. 741, title I, §105(b), 70

Stat. 665, provided for charters and bylaws for banks for cooperatives. See section 2121 of this title.

Section 1134b, act June 16, 1933, ch. 98, title IV, §40, 48 Stat. 264, provided for capital stock of banks for cooperatives and its amounts, value, and payments. See section 2124 of this title.

Section 1134c, acts June 16, 1933, ch. 98, title IV, §41, 48 Stat. 264; June 3, 1935, ch. 164, §14, 49 Stat. 317; Aug. 19, 1937, ch. 704, §36, 50 Stat. 717; Oct. 31, 1949, ch. 792, title IV, §417(a), 63 Stat. 1058; Aug. 11, 1955, ch. 785, title I, §107, 69 Stat. 662; July 26, 1956, ch. 741, title I, §105(k), 70 Stat. 665; Aug. 2, 1966, Pub. L. 89-525, §4(a), 80 Stat. 334; Dec. 15, 1967, Pub. L. 90-204, §3(b), 81 Stat. 612, covered lending powers of banks for cooperatives. See section 2122 of this title.

Section 1134d, acts June 16, 1933, ch. 98, title IV, §42, 48 Stat. 264; Aug. 6, 1953, ch. 335, §13, 67 Stat. 396; Aug. 11, 1955, ch. 785, title I, §101, 69 Stat. 655, provided for stock of banks for cooperatives. See section 2124 of this title.

Section 1134e, acts June 16, 1933, ch. 98, title IV, §43, 48 Stat. 265; Oct. 17, 1968, Pub. L. 90-582, §3, 82 Stat. 1145, provided for retirement of stock in banks for cooperatives held by the government. See section 2126 of this title.

CENTRAL BANK

§§1134f to 1134m. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1134f, act June 16, 1933, ch. 98, title III, §30, 48 Stat. 261, authorized the creation of a central bank for cooperatives. See section 2121 of this title.

Section 1134g, acts June 16, 1933, ch. 98, title III, §31, 48 Stat. 262; Aug. 11, 1955, ch. 785, title I, §104, 69 Stat. 659; June 11, 1960, Pub. L. 86-503, §1 (part), 74 Stat. 197, provided for a board of directors for central bank for cooperatives. See section 2123 of this title.

Section 1134h, acts June 16, 1933, ch. 98, title III, §32, 48 Stat. 262; Aug. 11, 1955, ch. 785, title I, §105, 69 Stat. 661, set out powers of board of directors for central bank for cooperative. See section 2123 of this title.

Section 1134i, acts June 16, 1933, ch. 98, title III, §33, 48 Stat. 262; Aug. 11, 1955, ch. 785, title I, §108(a), 69 Stat. 662, provided for capital stock of central bank for cooperatives. See section 2124 of this title.

Section 1134j, acts June 16, 1933, ch. 98, title III, §§34, 38, 48 Stat. 262, 264; June 3, 1935, ch. 164, §13, 49 Stat. 317; Aug. 19, 1937, ch. 704, §35, 50 Stat. 716; Oct. 31, 1949, ch. 792, title IV, §417(b), 63 Stat. 1059; Aug. 11, 1955, ch. 785, title I, §§106, 108(b), 69 Stat. 661, 662; July 26, 1956, ch. 741, title I, §105(j), 70 Stat. 665; Aug. 2, 1966, Pub. L. 89-525, §4(a), 80 Stat. 334; Dec. 15, 1967, Pub. L. 90-204, §3(b), 81 Stat. 612, authorized central bank to make loans and provided for prevention of duplication of effort on part of central bank and banks for cooperatives. See section 2122 of this title.

Section 1134k, acts June 16, 1933, ch. 98, title III, §35, 48 Stat. 263; June 3, 1935, ch. 164, §15, 49 Stat. 318; Aug. 11, 1955, ch. 785, title I, §102, 69 Stat. 658, made regional bank stock provisions applicable to ownership of stock by central bank borrowers and provided for payments for such stock. See section 2130 of this title.

Section 1134l, acts June 16, 1933, ch. 98, title III, §36, 48 Stat. 263; Aug. 6, 1953, ch. 335, §12, 67 Stat. 395; Aug. 11, 1955, ch. 785, title I, §103(a), 69 Stat. 658; Oct. 3, 1961, Pub. L. 87-343, §2(3), 75 Stat. 758; Aug. 31, 1964, Pub. L. 88-528, 78 Stat. 736, provided for disposition of earnings and maintenance of reserves of central bank. See section 2132 of this title.

Section 1134m, acts June 16, 1933, ch. 98, title III, §37, 48 Stat. 263; Aug. 23, 1954, ch. 834, §1, 68 Stat. 770, covered debentures, amount of such debentures, security, preparation, and issuance of such debentures, and consolidated debentures of central and regional banks for cooperatives. See section 2153 of this title.

SUBCHAPTER VI—PROVISIONS COMMON TO PRODUCTION CREDIT ASSOCIATIONS, AND REGIONAL AND CENTRAL BANKS FOR COOPERATIVES

§§1138 to 1138c. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1138, acts June 16, 1933, ch. 98, title VI, §60, 48 Stat. 266; Aug. 19, 1937, ch. 704, §5(a), 50 Stat. 704; July 26, 1956, ch. 741, title I, §105(l), 70 Stat. 666, set out general corporate powers common to banks for cooperatives and production credit associations. See sections 2093 and 2122 of this title.

Section 1138a, acts June 16, 1933, ch. 98, title VI, §61, 48 Stat. 267; July 26, 1956, ch. 741, title I, §105(m), 70 Stat. 666, provided for examination of parts of farm credit system by examiners of Farm Credit Administration. See section 2254 of this title.

Section 1138b, acts June 16, 1933, ch. 98, title VI, §62, 48 Stat. 267; Jan. 31, 1934, ch. 7, §11, 48 Stat. 347; July 26, 1956, ch. 741, title I, §105(n), 70 Stat. 666; Oct. 4, 1961, Pub. L. 87–353, §3(j), 75 Stat. 774, gave designated parts of farm credit system authority to act as fiscal agents of United States.

Section 1138c, acts June 16, 1933, ch. 98, title VI, §63, 48 Stat. 267, Aug. 11, 1955, ch. 785, title II, §205, 69 Stat. 663; July 26, 1956, ch. 741, title I, §105(o), 70 Stat. 666, provided that obligations of banks for cooperatives and production credit associations be deemed instrumentalities of United States and provided for termination of tax exemption after retirement of government-owned stock. See sections 2098 and 2134 of this title.

§1138d. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts June 16, 1933, ch. 98, title VI, §64, 48 Stat. 267; Jan. 31, 1934, ch. 7, §13, 48 Stat. 347, related to offenses and penalties. See sections 371, 433, 493, 657, 658, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

§1138e. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 16, 1933, ch. 98, title VI, §65, 48 Stat. 269; Aug. 11, 1955, ch. 785, title I, §110(a), 69 Stat. 662; July 26, 1956, ch. 741, title I, §105(p), 70 Stat. 666, provided for receivership and voluntary liquidation for production credit associations and banks for cooperatives. See section 2183 of this title.

§1138f. Repealed. Aug. 11, 1955, ch. 785, title I, §110(b), 69 Stat. 662

Section, acts June 16, 1938, ch. 98, title VI, §66, 48 Stat. 269; Oct. 28, 1949, ch. 782, title XII, §1201, 63 Stat. 972; Oct. 24, 1951, ch. 554, §3, 65 Stat. 614; June 28, 1955, ch. 189, §5, 69 Stat. 178, limited to \$14,620 per annum compensation which could be paid directors, officers, or employees of banks for cooperatives, production credit corporations, and production credit associations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Act Aug. 11, 1955, ch. 785, title I, §112, 69 Stat. 662, provided that: "This title [repealing this section and amending section 1141f of this title] shall take effect on the first day of the month next following one hundred and twenty days after its enactment [Aug. 11, 1955]."

CHAPTER 7A—AGRICULTURAL MARKETING

Sec.

1141. Declaration of policy; effective merchandising of agricultural commodities; speculation; cooperative marketing; surpluses; administration of chapter.

1141a to 1141f. Repealed.

1141g. Omitted.

1141h. Avoidance of duplication; cooperation with other governmental establishments;

obtaining information and data; cooperation with States, Territories, and agencies or subdivisions thereof; indicating research problems; transfer of offices, functions, etc.

1141i. Repealed.

1141j. Miscellaneous provisions.

EDITORIAL NOTES

CODIFICATION

This chapter contains the Agricultural Marketing Act, approved June 15, 1929.

In view of the amendments to the Agricultural Marketing Act made by the Farm Credit Act of 1933, approved June 16, 1933, and by the Farm Credit Act of 1935, approved June 3, 1935, and of the transfer of its administration to the Governor of the Farm Credit Administration by Executive Order No. 6084, set out preceding section 2241 of this title, the provisions of the Agricultural Marketing Act, as amended, have been transferred to this chapter from Title 7, Agriculture.

§1141. Declaration of policy; effective merchandising of agricultural commodities; speculation; cooperative marketing; surpluses; administration of chapter

(a) It is declared to be the policy of Congress to promote the effective merchandising of agricultural commodities in interstate and foreign commerce so that the industry of agriculture will be placed on a basis of economic equality with other industries, and to that end to protect, control, and stabilize the currents of interstate and foreign commerce in the marketing of agricultural commodities and their food products—

(1) by minimizing speculation.

(2) by preventing inefficient and wasteful methods of distribution.

(3) by encouraging the organization of producers into effective associations or corporations under their own control for greater unity of effort in marketing and by promoting the establishment and financing of a farm marketing system of producer-owned and producer-controlled cooperative associations and other agencies.

(4) by aiding in preventing and controlling surpluses in any agricultural commodity, through orderly production and distribution, so as to maintain advantageous domestic markets and prevent such surpluses from causing undue and excessive fluctuations or depressions in prices for the commodity.

(b) There shall be considered as a surplus for the purposes of this chapter any seasonal or year's total surplus, produced in the United States and either local or national in extent, that is in excess of the requirements for the orderly distribution of the agricultural commodity or is in excess of the domestic requirements for such commodity.

(c) The Farm Credit Administration shall execute the powers vested in it by this chapter only in such manner as will, in the judgment of the administration, aid to the fullest practicable extent in carrying out the policy above declared.

(June 15, 1929, ch. 24, §1, 46 Stat. 11; Ex. Ord. No. 6084, Mar. 27, 1933.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 521 of Title 7, Agriculture.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Farm Credit Administration" and "administration" substituted in text for "Federal Farm Loan Board" and "board", respectively, pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

SHORT TITLE

For short title of this chapter as the Agricultural Marketing Act, see section 1141j(e) of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXECUTIVE DOCUMENTS

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§1141a. Repealed. Aug. 6, 1953, ch. 335, §19, 67 Stat. 400

Section, act June 15, 1929, ch. 24, §2, 46 Stat. 11; Ex. Ord. No. 6084, Mar. 27, 1943; act Oct. 15, 1949, ch. 695, §6(a), 63 Stat. 881, related to appointment, compensation, qualifications, term of office, and expenses of the Governor of the Farm Credit Administration. See section 2244 et seq. of this title.

§§1141b to 1141f. Repealed. Pub. L. 115–334, title V, §5411(52)–(56), (58), Dec. 20, 2018, 132 Stat. 4685

Section 1141b, act June 15, 1929, ch. 24, §4, 46 Stat. 13; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, §37, 50 Stat. 717; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Pub. L. 96–592, title V, §510, Dec. 24, 1980, 94 Stat. 3451, set out general powers of the Farm Credit Administration.

Section 1141c, act June 15, 1929, ch. 24, §5, 46 Stat. 13; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, §50(a), 48 Stat. 265, set out special powers of the Farm Credit Administration.

Section 1141d, act June 15, 1929, ch. 24, §6, 46 Stat. 14; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title III, §§33, 34, title IV, §§40, 41, 48 Stat. 262, 264; Aug. 19, 1937, ch. 704, §38, 50 Stat. 718; Pub. L. 87–494, June 25, 1962, 76 Stat. 109, established and authorized an appropriation for a revolving fund.

Section 1141d–1, act June 22, 1939, ch. 239, 53 Stat. 853, related to limits on interest rates charged on loans made from the revolving fund.

Section 1141e, act June 15, 1929, ch. 24, §7, 46 Stat. 14; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, §§50–53, 48 Stat. 265; June 3, 1935, ch. 164, §§9, 10, 49 Stat. 316, related to loans made to cooperative associations.

Section 1141f, act June 15, 1929, ch. 24, §8, 46 Stat. 14; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, §54, 48 Stat. 266; June 3, 1935, ch. 164, §11, 49 Stat. 316; Aug. 19, 1937, ch. 704, §5(a), 50 Stat. 704; Aug. 11, 1955, ch. 785, title I, §109, 69 Stat. 662; Pub. L. 89–525, §4(b), Aug. 2, 1966, 80 Stat. 334, set out miscellaneous loan provisions.

EDITORIAL NOTES

CODIFICATION

Sections 1141b to 1141d, 1141e, and 1141f were formerly classified to sections 524 to 526, 527, and 528, respectively, of Title 7, Agriculture.

§1141g. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act June 15, 1929, ch. 24, §9, 46 Stat. 15; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the recognition, upon application of the advisory commodity committee, of stabilization corporations for commodities, and prescribed functions and operations in connection therewith. Ex. Ord. No. 6084 abolished the authority conferred by this section and ordered the Farm Credit Administration to take appropriate steps for winding up the activities of such corporations. The order is set out as a note preceding section 2241 of this title.

§1141h. Avoidance of duplication; cooperation with other governmental establishments; obtaining information and data; cooperation with States, Territories, and agencies or subdivisions thereof; indicating research problems; transfer of offices, functions, etc.

(a) The administration shall, in cooperation with any governmental establishment in the Executive branch of the Government, including any field service thereof at home or abroad, avail itself of the services and facilities thereof in order to avoid preventable expense or duplication of effort.

(b) The President may by Executive order direct any such governmental establishment to furnish the administration such information and data as such governmental establishment may have pertaining to the functions of the administration; except that the President shall not direct that the administration be furnished with any information or data supplied by any person in confidence to any governmental establishment in pursuance of any provision of law or of any agreement with a governmental establishment.

(c) The administration may cooperate with any State or Territory, or department, agency, or political subdivision thereof, or with any person.

(d) The administration shall, through the governor, indicate to the appropriate bureau or division of the Department of Agriculture any special problem on which a research is needed to aid in carrying out the provisions of this chapter.

(e) The President is authorized, by Executive order, to transfer to or retransfer from the jurisdiction and control of the administration the whole or any part of (1) any office, bureau, service, division, commission, or board in the Executive branch of the Government engaged in scientific or extension work, or the furnishing of services, with respect to the marketing of agricultural commodities, (2) its functions pertaining to such work or services, and (3) the records, property, including office equipment, personnel, and unexpended balances of appropriation, pertaining to such work or services.

(June 15, 1929, ch. 24, §13, 46 Stat. 17; Ex. Ord. No. 6084, Mar. 27, 1933.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 533 of Title 7, Agriculture.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administration" substituted in text for "board" pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXECUTIVE DOCUMENTS

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§1141i. Repealed. Pub. L. 115–334, title V, §5411(57), Dec. 20, 2018, 132 Stat. 4685

Section, act June 15, 1929, ch. 24, §14, 46 Stat. 18; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 30, 1954, ch. 1076, §1(30), 68 Stat. 968; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814, related to finality of certain vouchers approved for expenditures and examination of financial transactions.

Section was formerly classified to section 534 of Title 7, Agriculture.

§1141j. Miscellaneous provisions

(a) "Cooperative association" defined

As used in this chapter, the term "cooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services: *Provided, however*, That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; and

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association.

(b) Speculation prohibited

It shall be unlawful for the governor, or any officer or employee of the Farm Credit Administration to speculate directly or indirectly, in any agricultural commodity or product thereof, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subdivision shall upon conviction thereof be fined not more than \$10,000, or imprisoned not more than ten years, or both.

(c) Confidential information; disclosure prohibited

It shall be unlawful (1) for any cooperative association, stabilization corporation, clearing-house association, or commodity committee, or (2) for any director, officer, employee, or member or person acting on behalf of any such association, corporation, or committee, to which or to whom information has been imparted in confidence by the administration, to disclose such information in violation of any regulation of the administration. Any such association, corporation, or committee, or director, officer, employee, or member thereof, violating this subdivision, shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(d) Separability clause

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person, circumstance, commodity, or class of transactions with respect to any commodity is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons, circumstances, commodities, and classes of transactions shall not be affected thereby.

(e) Citation of chapter

This chapter may be cited as the "Agricultural Marketing Act."

(f) "Agricultural commodity" defined

As used in this chapter, the term "agricultural commodity" includes, in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine and gum rosin, as defined in section 92 of title 7.

(June 15, 1929, ch. 24, §15, 46 Stat. 18; Mar. 4, 1931, ch. 520, §3, 46 Stat. 1550; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, §55, 48 Stat. 266; June 3, 1935, ch. 164, §12, 49 Stat. 317; Pub. L. 110-234, title I, §1610, May 22, 2008, 122 Stat. 1018; Pub. L. 110-246, §4(a), title I, §1610, June 18, 2008, 122 Stat. 1664, 1746.)

EDITORIAL NOTES

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section was formerly classified to section 535 of Title 7, Agriculture.

AMENDMENTS

2008—Subsecs. (d) to (g). Pub. L. 110-246, §1610, redesignated subsecs. (e) to (g) as (d) to (f), respectively, and struck out former subsec. (d) which read as follows: "The inclusion in any governmental report, bulletin, or other such publication hereafter issued or published of any prediction with respect to cotton prices is prohibited. Any officer or employee of the United States who authorizes or is responsible for the inclusion in any such report, bulletin, or other publication of any such prediction, or who knowingly causes the issuance or publication of any such report, bulletin, or other publication containing any such prediction, shall, upon conviction thereof, be fined not less than \$500 or more than \$5,000, or imprisoned for not more than five years, or both: *Provided*, That this subdivision shall not apply to the Governor of the Farm Credit Administration when engaged in the performance of his duties herein provided."

1935—Subsec. (a). Act June 3, 1935, amended definition of cooperative association and inserted second sentence in par. "Third".

1933—Subsec. (a). Act June 16, 1933, among other changes, inserted proviso and all subsequent thereto.

1931—Subsec. (g). Act Mar. 4, 1931, added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"The Governor" and "Farm Credit Administration" substituted in text for "any member" and "board", respectively, and "Governor of the Farm Credit Administration" substituted for "members of the board", pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to

perform functions, etc., of Farm Credit Administration, see section 2241 et seq of this title.

EXECUTIVE DOCUMENTS

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 7B—REGIONAL AGRICULTURAL CREDIT CORPORATIONS

Sec.

1148 to 1148d. Repealed.

§1148. Repealed. Pub. L. 115–334, title V, §5411(59), Dec. 20, 2018, 132 Stat. 4685

Section, act July 21, 1932, ch. 520, §201(e), 47 Stat. 713; Aug. 19, 1937, ch. 704, §5(a), 50 Stat. 704; June 30, 1947, ch. 166, title II, §206, 61 Stat. 208, authorized the creation of regional agricultural credit corporations within the farm credit districts.

§1148a. Repealed. Pub. L. 92–181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 16, 1933, ch. 98, title VIII, §84, 48 Stat. 273; June 30, 1947, ch. 166, title II, §206, 61 Stat. 208, provided for reduction of capital of regional agricultural credit corporations by Farm Credit Administration. See section 2252 of this title.

§§1148a–1 to 1148a–3. Repealed. Pub. L. 87–128, title III, §341(a), Aug. 8, 1961, 75 Stat. 318

Section 1148a–1, acts Apr. 6, 1949, ch. 49, §1, 63 Stat. 43; Aug. 5, 1950, ch. 592, §1(a), 64 Stat. 414, provided for transfer of functions of Regional Agricultural Credit Corporation, Washington, D.C., to Secretary of Agriculture to make disaster loans, abolished such corporation, provided for transfer of assets, funds, rights, liabilities, use of revolving, transfer of personnel and delegation of authority by Secretary of Agriculture.

Section 1148a–2, acts Apr. 6, 1949, ch. 49, §2, 63 Stat. 44; July 14, 1953, ch. 192, §1, 67 Stat. 149; July 7, 1955, ch. 278, §§1, 2, 69 Stat. 263; July 15, 1955, ch. 373, 69 Stat. 366; July 11, 1958, Pub. L. 85–516, 72 Stat. 357; July 26, 1961, Pub. L. 87–106, 75 Stat. 220, authorized the Secretary of Agriculture to make loans to farmers and stockmen, prescribed the rates of interest and terms and conditions of the loans, provided for economic disaster loans and rates of interest and terms thereof, special livestock loans, the effective period of such loans, security, rate of interest, terms and conditions of such loans and local loan committees, emergency assistance in furnishing feed and seed, utilization of Agriculture Department agencies, utilization of revolving fund and transfer of funds into the revolving fund.

Section 1148a–3, act Apr. 6, 1949, ch. 49, §3(a), 63 Stat. 44, provided that no suit or other judicial proceeding instituted by or against the Regional Agricultural Credit Corporation shall abate by reason of sections 1148a–1 and 1148a–2 of this title and permitted substitution of the Secretary as a party in place of the Corporation within six months after Apr. 16, 1949.

For subject matter of former sections 1148a–1 to 1148a–3 of this title see section 1921 et seq. of Title 7, Agriculture.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of

chapter 50 of Title 7, Agriculture, are made effective by regulations of Secretary of Agriculture, except that repeal of section 1148a–2(c) of this title shall not be effective prior to Jan. 1, 1962, see section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of Title 7.

Repeal effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note set out under section 1921 of Title 7.

CREDIT EMERGENCY LOANS: TERMINATION DATE

Act Aug. 31, 1954, ch. 1145, 68 Stat. 999, as amended by acts June 30, 1955, ch. 249, 69 Stat. 223; July 7, 1955, ch. 278, §3, 69 Stat. 263; Aug. 1, 1956, ch. 829, §4, 70 Stat. 804, which authorized the Secretary of Agriculture to make emergency loans for any agricultural purpose until June 30, 1957, described persons eligible for such loans and provided for utilization of a revolving fund of the Farm Credit Administration for loans and administrative expenses and additions to such fund from liquidation of loans, was repealed effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of Title 7, Agriculture, are made effective by regulations of Secretary of Agriculture by provisions of section 341(a) of Pub. L. 87–128, set out as a note under section 1921 of Title 7. See section 1961 et seq. of Title 7.

§§1148a–4 to 1148d. Repealed. Pub. L. 115–334, title V, §5411(60)–(63), Dec. 20, 2018, 132 Stat. 4686

Section 1148a–4, act July 14, 1953, ch. 192, §2, 67 Stat. 150, related to security for economic disaster and special livestock loans.

Section 1148b, act Aug. 19, 1937, ch. 704, §32, 50 Stat. 716; June 30, 1947, ch. 166, title II, §206(s), 61 Stat. 209, set out additional powers of regional agricultural credit corporations.

Section 1148c, act Aug. 19, 1937, ch. 704, §33, 50 Stat. 717; June 30, 1947, ch. 166, title II, §206(s), 61 Stat. 209, related to consolidation or merger of two or more regional agricultural credit corporations.

Section 1148d, act Aug. 19, 1937, ch. 704, §34, 50 Stat. 717, declared the rights and powers of regional agricultural credit corporations, the Farm Credit Administration, or the Governor of the Administration to be unaffected by sections 1148b and 1148c of this title.

CHAPTER 8—ADJUSTMENT AND CANCELLATION OF FARM LOANS

Sec.

- 1150. Compromise, adjustment, and cancellation of farm loans; conditions; delegation of powers and duties by Secretary of Agriculture.
- 1150a. Farm loans to which chapter is applicable.
- 1150b. Authorization of appropriations.
- 1150c. Self-hauling of hay or other roughages under hay transportation assistance program; liability for or refund of excess payments; availability of funds for payments.

EDITORIAL NOTES

CODIFICATION

For provisions similar to former chapter 8 of this title, relating to federal intermediate credit banks, see Part A (§2071 et seq.) of subchapter II of chapter 23 of this title.

§1150. Compromise, adjustment, and cancellation of farm loans; conditions; delegation of powers and duties by Secretary of Agriculture

The Secretary of Agriculture, hereinafter referred to as the Secretary, is authorized and directed to compromise, adjust, or cancel indebtedness arising from loans and payments made or credit extended to farmers under the provisions of the several Acts of Congress or programs enumerated in section 1150a of this title: *Provided*, That the Secretary finds, after such investigation as he deems sufficient to establish the facts, that (1) said indebtedness has been due and payable for five years or more; (2) the debtor is unable to pay said indebtedness in full and has no reasonable prospect of being able to do so; (3) the debtor has acted in good faith in an effort to meet his obligation; and (4) the principal

amount of said indebtedness is not in excess of \$1,000. The Secretary is further authorized at his discretion to cancel and discharge indebtedness arising under said Acts of Congress or programs when the amount of said indebtedness is less than \$10, or the debtor is deceased and there is no reasonable prospect of recovering from his estate, or his whereabouts has remained unknown for two years and there is no reasonable prospect of obtaining collection, or he has been discharged of the indebtedness in any proceeding under the Bankruptcy Act or under title 11. The compromises, adjustments, or cancellations ¹ authorized by this section shall be effected through such agencies, upon such terms and conditions, and subject to such regulations, as the Secretary may prescribe, and the Secretary may delegate the exercise of any such powers and functions to such officers or employees of the Department of Agriculture as he may designate.

(Dec. 20, 1944, ch. 623, §1, 58 Stat. 836; Pub. L. 95-598, title III, §305, Nov. 6, 1978, 92 Stat. 2674.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Bankruptcy Act, referred to in text, is act July 1, 1898, ch. 541, 30 Stat. 544, which was classified generally to Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11.

AMENDMENTS

1978—Pub. L. 95-598 substituted "Bankruptcy Act or under title 11" for "Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States' ".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

All functions of all officers, agencies, and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations, Advisory Board of Commodity Credit Corporation, and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

¹ *So in original. Probably should be "cancellations".*

§1150a. Farm loans to which chapter is applicable

The provisions of this chapter shall apply to any indebtedness of farmers arising from loans or payments made or credit extended to them under any of the following Acts or programs: (a) July 1, 1918 (40 Stat. 635); March 3, 1921 (41 Stat. 1347); March 20, 1922 (42 Stat. 467); April 26, 1924 (43 Stat. 110); February 25, 1927 (44 Stat. 1245); February 28, 1927 (44 Stat., part II, 1251);

February 25, 1929 (45 Stat. 1306), as amended May 17, 1929 (46 Stat. 3); March 3, 1930 (46 Stat. 78–79), as amended April 24, 1930 (46 Stat. 254); December 20, 1930 (46 Stat. 1032), as amended February 14, 1931 (46 Stat. 1160); February 23, 1931 (46 Stat. 1276); January 22, 1932 (47 Stat. 5); March 3, 1932 (47 Stat. 60); February 4, 1933 (47 Stat. 795); February 23, 1934 (48 Stat. 354); June 19, 1934 (48 Stat. 1056); February 20, 1935 (49 Stat. 28); March 21, 1935 (49 Stat. 50); April 8, 1935 (49 Stat. 115); (Executive Order Numbered 7305); January 29, 1937 (50 Stat. 5); and February 4, 1938 (52 Stat. 27); (b) Agricultural Adjustment Act (of 1933); Bankhead Cotton Act of April 21, 1934, on account of the several cotton tax-exemption certificate pools; Jones-Connally Cattle Act of April 7, 1934; Emergency Appropriation Act, fiscal year 1935, approved June 19, 1934; Kerr Tobacco Act of June 28, 1934, and Public Resolution Numbered 76, approved March 14, 1936; section 32 of the Act of August 24, 1935, and related legislation; Supplemental Appropriation Act, fiscal year 1936; sections 7 to 17 of the Soil Conservation and Domestic Allotment Act; Sugar Act of 1937; sections 303 and 381(a) of the Agricultural Adjustment Act of 1938 and related or subsequent legislation authorizing parity or price adjustment payments; title IV and title V of the Agricultural Adjustment Act of 1938 and related legislation; any amendment to any of the foregoing Acts heretofore and any other Act of Congress heretofore enacted authorizing payments to farmers under programs administered through the Agricultural Adjustment Agency; (c) Loans made by or through the Resettlement Administration of the Farm Security Administration out of funds appropriated or made available by or pursuant to the following Acts; April 8, 1935 (49 Stat. 115); June 22, 1936 (49 Stat. 1608); February 9, 1937 (50 Stat. 8); June 29, 1937 (50 Stat. 352); The Bankhead-Jones Farm Tenant Act, July 22, 1937 (50 Stat. 522 et seq.); the Water Facilities Act of August 28, 1937 (50 Stat. 869 et seq.); March 2, 1938 (52 Stat. 83, Public Resolution Numbered 80); June 21, 1938 (52 Stat. 809); June 30, 1939 (53 Stat. 927); June 26, 1940 (Public Resolution Numbered 88); flood-restoration loans, Second Deficiency Appropriation Act, 1943 (57 Stat. 537, 542); and subsequent legislation appropriating or making available funds for such loans; commodity loan, purchase, sale, and other programs of the Commodity Credit Corporation; and crop-insurance programs formulated pursuant to title V of the Agricultural Adjustment Act of 1938 (the Federal Crop Insurance Act), and any amendment or supplement thereto heretofore or hereafter enacted. This chapter shall also apply to any indebtedness of farmers evidenced by notes or accounts receivable, title to which has been acquired in the liquidation of loans to cooperative associations made under the provisions of the Act of June 15, 1929 (46 Stat. 11).

(Dec. 20, 1944, ch. 623, §2, 58 Stat. 836.)

EDITORIAL NOTES

REFERENCES IN TEXT

Act of January 22, 1932 (47 Stat. 5), referred to in text, is act Jan. 22, 1932, ch. 8, 47 Stat. 5, known as the Reconstruction Finance Corporation Act, which was formerly classified to chapter 14 (§601 et seq.) of Title 15, Commerce and Trade, and which has been eliminated from the Code. For complete classification of this Act prior to its elimination from the Code, see Tables.

Act of March 3, 1932 (47 Stat. 60), referred to in text, is act Mar. 3, 1932, ch. 70, 47 Stat. 60, which was formerly classified to chapter 10 (§1401 et seq.) of this title, and which was repealed by Pub. L. 115–344, title V, §5411(64), Dec. 20, 2018, 132 Stat. 4686.

Act of April 8, 1935 (49 Stat. 115), and (Executive Order Numbered 7305), referred to in text, mean act Apr. 8, 1935, ch. 48, 49 Stat. 115, and Ex. Ord. No. 7305, Feb. 28, 1936, respectively, which were formerly classified to Chapter 16 (§721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have been eliminated from the Code.

Act of June 19, 1934 (48 Stat. 1056), referred to in text, probably means act June 19, 1934, ch. 648, title II, §1, 48 Stat. 1056. See References in Text note for the Emergency Appropriation Act, fiscal year 1935, below.

Act of January 29, 1937 (50 Stat. 5), referred to in text, is act Jan. 29, 1937, ch. 7, 50 Stat. 5, which was formerly classified to subchapter II–B (§1020i et seq.) of chapter 7 of this title, and which was repealed by act Aug. 14, 1946, ch. 964, §2(a)(2), 60 Stat. 1062.

The Agricultural Adjustment Act (of 1933), referred to in text, probably means title I of act May 12, 1933, ch. 25, 48 Stat. 31, known as the Agricultural Adjustment Act, which is classified generally to chapter 26

(§601 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 7 and Tables.

The Bankhead Cotton Act of April 21, 1934, referred to in text, is act Apr. 21, 1934, ch. 157, 48 Stat. 598, which is classified generally to chapter 27 (§701 et seq.) of Title 7. The Bankhead Cotton Act was substantially repealed by act Feb. 10, 1936, ch. 42, 49 Stat. 1106. For complete classification of this Act to the Code, see Tables.

The Jones-Connally Cattle Act of April 7, 1934, referred to in text, is act Apr. 7, 1934, ch. 103, 48 Stat. 528, which is classified to sections 608, 608b, 609, 611, 612, and 612a of Title 7. For complete classification of this Act to the Code, see Tables.

Emergency Appropriation Act, fiscal year 1935, approved June 19, 1934, referred to in text, is act June 19, 1934, ch. 648, title II, 48 Stat. 1055, relevant provisions of which were classified to sections 604 and 605 of Title 7, and section 59 of former Title 49, Transportation. Section 605 of Title 7 was repealed by act June 30, 1947, ch. 166, title II, §206(d), 61 Stat. 208, and section 59 of former Title 49, was repealed by Pub. L. 95-473, §4(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Tables.

The Kerr Tobacco Act of June 28, 1934, referred to in text, is act June 28, 1934, ch. 866, §§1 to 16, 48 Stat. 1275, which was formerly classified to chapter 28 (§751 et seq.) of Title 7, and which was repealed by act Feb. 10, 1936, ch. 42, 49 Stat. 1106.

Section 32 of the Act of August 24, 1935, referred to in text, is classified to section 612c of Title 7.

Supplemental Appropriation Act, fiscal year 1936, referred to in text, is act Feb. 11, 1936, ch. 49, 49 Stat. 1134, provisions of which were formerly classified to chapter 16 (§721 et seq.) of Title 15, Commerce and Trade, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have been eliminated from the Code. For complete classification of this Act to the Code, see Tables.

Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, referred to in text, are classified to sections 590g, 590h, 590i, and 590j to 590q of Title 16, Conservation. Section 16 of the Act, classified to section 590p of Title 16, was repealed by Pub. L. 104-127, title III, §336(b)(1), Apr. 4, 1996, 110 Stat. 1006.

The Sugar Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 898, 50 Stat. 903, which was formerly classified to chapter 34 (§1100 et seq.) of Title 7, Agriculture. The Sugar Act of 1937 expired on Dec. 31, 1947, and was superseded by the Sugar Act of 1948, which in turn expired on Dec. 31, 1974, and which has now been eliminated from the Code. For complete classification of the Sugar Act of 1937 to the Code prior to its expiration, see Tables.

Sections 303 and 381(a) of the Agricultural Adjustment Act of 1938, referred to in text, are classified to sections 1303 and 1381(a), respectively, of Title 7. Section 1381 of Title 7, was omitted from the Code.

The Agricultural Adjustment Act of 1938, referred to in text, is act Feb. 16, 1938, ch. 30, 52 Stat. 31. Title IV of the Act was formerly classified to subchapter III (§1401 et seq.) of chapter 35 of Title 7, and has been eliminated from the Code. Title V of the Act, formerly known as the Federal Crop Insurance Act, is classified generally to chapter 36 (§1501 et seq.) of Title 7. For complete classification of these Acts to the Code, see sections 1281 and 1501 of Title 7 and Tables.

Act of June 22, 1936 (49 Stat. 1608), referred to in text, probably means act June 22, 1936, ch. 689, title II, 49 Stat. 1608, provisions of which were formerly classified to chapter 16 (§721 et seq.) of Title 15, Commerce and Trade, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have been eliminated from the Code.

Act of June 29, 1937 (50 Stat. 352), referred to in text, probably means act June 29, 1937, ch. 401, 50 Stat. 357, provisions of which were formerly classified to chapter 16 (§721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have been eliminated from the Code. For complete classification of this Act to the Code, see Tables.

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, which is classified generally to chapter 33 (§1000 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

The Water Facilities Act of August 28, 1937 (50 Stat. 869 et seq.), referred to in text, is act Aug. 28, 1937, ch. 870, 50 Stat. 869, which was formerly classified to sections 590r to 590x-4 of Title 16, Conservation, and was repealed by section 341(a) of Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 318. See chapter 50 (§1921 et seq.) of Title 7, Agriculture.

Acts of March 2, 1938 (52 Stat. 83, Public Resolution Numbered 80), June 21, 1938 (52 Stat. 809), and June 30, 1939 (53 Stat. 927), referred to in text, are acts Mar. 2, 1938, ch. 38, 52 Stat. 83, June 21, 1938, ch. 554, 52 Stat. 809, and June 30, 1939, ch. 252, 53 Stat. 927, respectively, which were formerly classified to chapter 16 (§721 et seq.) of Title 15, Commerce and Trade, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have been eliminated from the Code.

Act of June 26, 1940 (Public Resolution Numbered 88), referred to in text, is act June 26, 1940, ch. 432, 54 Stat. 611, provisions of which were formerly classified to section 609i of Title 15, and also to chapter 16 (§721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have been eliminated from the Code. For complete classification of this Act to the Code, see Tables.

The Federal Crop Insurance Act, referred to in text, is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1501 of Title 7 and Tables.

Act of June 15, 1929 (46 Stat. 11), referred to in text, is act June 15, 1929, ch. 24, 46 Stat. 11, known as the Agricultural Marketing Act, which is classified generally to chapter 7A (§1141 et seq.) of this title. For complete classification of this Act to the Code, see section 1141j(e) of this title and Tables.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2, of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Agricultural Adjustment Agency and administration of programs of Commodity Credit Corporation and Federal Crop Insurance Corporation transferred to Secretary of Agriculture by Reorg. Plan No. 3 of 1946, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5. See, also, notes under sections 610 and 1503 of Title 7, Agriculture.

Farm Security Administration abolished, see note under sections 1001 to 1006 of Title 7, Agriculture.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations, Advisory Board of Commodity Credit Corporation, and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§1150b. Authorization of appropriations

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amount as may be necessary to enable the Secretary to carry out the provisions of this chapter, and the current and subsequent appropriations to enable the Secretary to administer the respective Acts of Congress or programs to which the aforesaid payments or loans or extensions of credit relate shall also be available for the administrative expenses of carrying out this chapter.

(Dec. 20, 1944, ch. 623, §3, 58 Stat. 837.)

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan. No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations, Advisory Board of Commodity Credit Corporation, and Farm Credit Administration or any agency, officer, or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§1150c. Self-hauling of hay or other roughages under hay transportation assistance program; liability for or refund of excess payments; availability of funds for payments

Notwithstanding any other provision of law, no persons who have received or have owing to them, prior to September 24, 1980, payments at rates announced by the Secretary of Agriculture for self-hauling of hay or other roughages under the hay transportation assistance program shall be liable for, or be obligated to refund, any amount that is determined by the Secretary to be in excess of the payment computed in accordance with the maximum rate provided by section 8 of the Farmer-to-Consumer Direct Marketing Act of 1976: *Provided*, That the Secretary determines that such persons have otherwise complied with the terms and conditions of, and are otherwise entitled to payments under, the hay transportation assistance program. Any payments made pursuant to this section shall be made out of funds appropriated or otherwise available on September 24, 1980 for disaster relief.

(Dec. 20, 1944, ch. 623, §4, as added Pub. L. 96-356, Sept. 24, 1980, 94 Stat. 1177.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 8 of the Farmer-to-Consumer Direct Marketing Act of 1976, referred to in text, is section 8 of Pub. L. 94-463, Oct. 8, 1976, 90 Stat. 1983, which is set out as a note under section 5145 of Title 42, The Public Health and Welfare.

CODIFICATION

"This section" and "September 24, 1980", referred to in the last sentence, were in the original "this Act" and "the date of enactment of this Act". These references were editorially translated as Pub. L. 96-356, Sept. 24, 1980, 94 Stat. 1177 and the date of enactment of Pub. L. 96-356, as the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1150c, act Dec. 20, 1944, ch. 623, §4, 58 Stat. 837, related to false representations, acceptance of fees, etc., prior to repeal by act June 25, 1948, 645 §21, 62 Stat. 862, effective Sept. 1, 1948. See sections 217 and 1026 of Title 18, Crimes and Criminal Procedure.

CHAPTER 9—NATIONAL AGRICULTURAL CREDIT CORPORATIONS

FORMATION

§1151. Repealed. Pub. L. 86-230, §24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, §201, 42 Stat. 1461, related to purpose, incorporators, articles of association and signing and filing thereof.

§1151a. Repealed. Pub. L. 92-181, title V, §5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act June 16, 1933, ch. 98, title VII, §77, 48 Stat. 272, prohibited formation of agricultural credit corporations after June 16, 1933.

REQUISITES OF ARTICLES AND CERTIFICATE

§§1161 to 1163. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §202(a)–(c), 42 Stat. 1461, related to organization certificate and contents, name of corporation, and acknowledgment of organization certificate and articles of association, respectively.

CORPORATE POWERS

§§1171, 1172. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Section 1171, act Mar. 4, 1923, ch. 252, title II, §202(d), 42 Stat. 1462, related to corporate powers in general, directors and officers.

Section 1172, acts Mar. 4, 1923, ch. 252, title II, §203(a), 42 Stat. 1462; Feb. 8, 1927, ch. 74, 44 Stat. 1059, related to additional powers under regulation of Comptroller.

DEBENTURES AND OTHER OBLIGATIONS; LIABILITY; SECURITY

§§1181, 1182. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §203(b), (c), 42 Stat. 1464, related to liability of United States for debentures and other obligations issued by credit corporations and additional real-estate security for obligations, respectively.

LIMITATIONS

§1191. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, §204, 42 Stat. 1464, related to restrictions on amount of indebtedness and on advances, etc., to single persons and on dealings in livestock.

INTEREST RATES

§§1201, 1202. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §205(a), (b), 42 Stat. 1464, related to charges on loans and discounts and exacting unlawful interest, respectively.

CAPITAL STOCK

§§1211 to 1215. Repealed. Pub. L. 86-230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §206(a)–(e), 42 Stat. 1464, related to amount of capital stock and payment as condition to grant of certificate to do business, increase or reduction of capital stock and withdrawal of paid-in capital, transfer of shares, collection of unpaid subscriptions, and shareholders voting by proxy, respectively.

REDISCOUNT CORPORATIONS

§§1221 to 1223. Repealed. Pub. L. 86-230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §207(a)–(c), 42 Stat. 1465, related to rediscount powers, limitation upon indebtedness and deposit of bonds or securities, respectively.

PERMIT TO BEGIN BUSINESS

§§1231, 1232. Repealed. Pub. L. 86-230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §208(a), (b), 42 Stat. 1466, related to deposit of bonds or obligations of United States as condition to issue of permit and determination as to grant of permit, respectively.

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

§§1241 to 1244. Repealed. Pub. L. 86-230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §209(a), (b) (pt.), (c), (d), 42 Stat. 1467, related to supervision by Comptroller of Currency, assessment of credit corporations to pay administrative expenses, appointment and compensation of examiners of National Agricultural Credit Corporations and laws applicable, and expenses of examinations, respectively.

§1245. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act Mar. 4, 1923, ch. 252, title II, §209(e), 42 Stat. 1468, related to loans and gratuities to examiners.

§§1246, 1247. Repealed. Pub. L. 86-230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §209(f), (g), 42 Stat. 1468, related to reports to Comptroller of Currency and licenses to act as inspectors of livestock as basis for loans, suspension or revocation of licenses and false representations as to holding of license, respectively.

§1248. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act Mar. 4, 1923, ch. 252, title II, §209(h), 42 Stat. 1468, related to false statements in inspection reports. See section 1014 of Title 18, Crimes and Criminal Procedure.

§1249. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, §209(i), 42 Stat. 1468, related to allotment to Department of Agriculture of amount necessary for administration of functions vested therein.

BANKS OF FEDERAL RESERVE SYSTEM AS STOCKHOLDERS

§1251. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, §210, 42 Stat. 1469, related to right to file application for stock and discretion of Comptroller of Currency.

TAXATION

§1261. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, §211, 42 Stat. 1469, related to scope of authority of State to tax.

DEPOSITS

§1271. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, §212, 42 Stat. 1469, related to deposits in Federal reserve member banks.

CONVERSION OF CORPORATIONS

§§1281 to 1283. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §213(a)–(c), 42 Stat. 1469, related to conversion of State agricultural or livestock financing corporations into National Agricultural Credit Corporations, articles of association and organization certificate, and powers, duties, and liabilities of converted corporation, respectively.

CONSOLIDATION OF CORPORATIONS

§§1291 to 1293. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §214(a)–(c), 42 Stat. 1470, related to procedure for consolidation and capital stock, dissenting stockholders, and effect of consolidation, respectively.

INSOLVENCY, RECEIVERSHIP, AND LIQUIDATION

§§1301 to 1303. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, §215(a)–(c), 42 Stat. 1471, related to appointment and powers of receiver, appointment and powers of shareholders' agents, and voluntary liquidation, respectively.

PENALTY PROVISIONS

§§1311 to 1318. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 1311, act Mar. 4, 1923, ch. 252, title II, §216(a), 42 Stat. 1471, related to various criminal acts of officers, employees, or agents. See section 709 of Title 18, Crimes and Criminal Procedure.

Section 1312, act Mar. 4, 1923, ch. 252, title II, §216(b), 42 Stat. 1472, related to false statements. See section 1014 of Title 18.

Section 1313, act Mar. 4, 1923, ch. 252, title II, §216(c), 42 Stat. 1472, related to overvaluation of property offered as security. See section 1014 of Title 18.

Section 1314, act Mar. 4, 1923, ch. 252, title II, §216(d), 42 Stat. 1472, related to offenses by examiners. See sections 1908 and 1909 of Title 18.

Section 1315, act Mar. 4, 1923, ch. 252, title II, §216(e), 42 Stat. 1472, related to acceptance of gifts by officers. See section 215 of Title 18.

Section 1316, act Mar. 4, 1923, ch. 252, title II, §216(f), 42 Stat. 1473, related to forgery, etc. See section 493 of Title 18.

Section 1317, act Mar. 4, 1923, ch. 252, title II, §216(g), 42 Stat. 1473, related to false representations as to debentures. See section 1013 of Title 18.

Section 1318, act Mar. 4, 1923, ch. 252, title II, §216(h), 42 Stat. 1473, related to unlawful use of words "National Agricultural Credit Corporation". See section 709 of Title 18.

PARTIAL INVALIDITY; AMENDMENTS AND REPEALS

§1321. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act Mar. 4, 1923, ch. 252, title V, §507, 42 Stat. 1482, related to partial invalidity of chapter.

§1322. Repealed. Pub. L. 86–230, §24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, §217, 42 Stat. 1473, related to amendment or repeal of chapter.

CHAPTER 10—LOCAL AGRICULTURAL-CREDIT CORPORATIONS, LIVESTOCK-LOAN COMPANIES AND LIKE ORGANIZATIONS;

LOANS TO INDIVIDUALS TO AID IN FORMATION OR TO INCREASE CAPITAL STOCK

Sec.

1401 to Repealed.
1404.

§§1401 to 1404. Repealed. Pub. L. 115–334, title V, §5411(64), Dec. 20, 2018, 132 Stat. 4686

Section 1401, act Mar. 3, 1932, ch. 70, §1, 47 Stat. 60; Ex. Ord. No. 6084, Mar. 27, 1933, related to authorization of loans by the Governor of the Farm Credit Administration.

Section 1402, act Mar. 3, 1932, ch. 70, §2, 47 Stat. 60; Ex. Ord. No. 6084, Mar. 27, 1933, set limitation on loans to individual stockholders and required approval of financial structure of corporation prior to loan made upon its capital stock.

Section 1403, act Mar. 3, 1932, ch. 70, §3, 47 Stat. 60, related to minimum paid-in capital stock for loan or advance.

Section 1404, act Mar. 3, 1932, ch. 70, §4, 47 Stat. 60, authorized appropriations to be paid into a revolving fund.

CHAPTER 11—FEDERAL HOME LOAN BANKS

Sec.

1421. Short title.

1422. Definitions.

1422a, 1422b. Repealed.

1423. Federal Home Loan Bank districts; number and boundaries; establishment of Federal
 Home Loan Banks; names.

1424. Eligibility for membership.

1425 to 1425b. Repealed.

1426. Capital structure of Federal home loan banks.

1426a. Exclusion from certain requirements.

1427. Directors.

1428. Examination of State laws, regulations, and procedures; studies of values, etc.

1428a. Repealed.

1429. Eligibility to secure advances.

1430. Advances to members.

1430a. Omitted.

1430b. Advances to nonmember mortgagee; terms and conditions.

1430c. Housing goals.

1431. Powers and duties of banks.

1432. Incorporation of banks; corporate powers; housing project loans.

1433. Exemption from taxation; obligations acceptable as credit on debt of home owner.

1434. Depositories of public money; financial agents.

1435. Obligations as lawful investments; liability of United States for debentures, etc., issued
 by banks.

1436. Reserves and dividends; emergency suspensions of requirements.

1437. Repealed.

1438. Omitted.

1438a. Nonadministrative expenses; expenses of studies and investigations.

1439, 1439–1. Repealed.

1439a. Deposits in special fund; availability for all purposes of Federal Home Loan Bank
 Board and Federal Home Loan Bank Administration.

1440. Examinations and audits.

- 1440a. Sharing of information among Federal Home Loan Banks.
- 1441. Financing Corporation.
- 1441a. Repealed.
- 1441a-1. Definitions.
- 1441a-2. Authorization for State housing finance agencies and nonprofit entities to purchase mortgage-related assets.
- 1441a-3. RTC and FDIC properties.
- 1441b. Resolution Funding Corporation established.
- 1442. Member financial information.
- 1442a. Repealed.
- 1443. Forms of bank stock and obligations.
- 1444. Eligibility to membership in banks.
- 1445. Succession of Federal Home Loan Banks.
- 1446. Liquidation or reorganization; acquisition of assets by other banks; assumption of liabilities.
- 1447. Repealed.
- 1448. Effect of partial invalidity of chapter.
- 1449. Reservation of right to amend or repeal chapter.

§1421. Short title

This chapter may be cited as the "Federal Home Loan Bank Act."
(July 22, 1932, ch. 522, §1, 47 Stat. 725.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–102, title VI, §601, Nov. 12, 1999, 113 Stat. 1450, provided that: "This title [amending sections 250, 1422, 1422b, 1424, 1426, 1427, 1429, 1430, 1432, 1436, 1438, 1441b, 1464, and 1467a of this title, repealing sections 1442a and 1447 of this title, and enacting provisions set out as a note under section 1441b of this title] may be cited as the 'Federal Home Loan Bank System Modernization Act of 1999'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–204, §1(a), Dec. 17, 1993, 107 Stat. 2369, provided that: "This Act [enacting section 1447 of this title and section 8C of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees, amending sections 1441a, 1811, 1813, 1815, 1817, 1818, 1821, 1822, 1824, 1831j, and 1831q of this title, sections 5314 and 5315 of Title 5, and sections 8D to 8G and 11 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, enacting provisions set out as notes under sections 1441a, 1811, 1817, 1821, 1822, 1827, and 1831q of this title and section 3 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, and amending provisions set out as notes under section 396f of Title 16, Conservation, and section 1611 of Title 43, Public Lands] may be cited as the 'Resolution Trust Corporation Completion Act'."

SHORT TITLE OF 1991 AMENDMENTS

Pub. L. 102–233, §1, Dec. 12, 1991, 105 Stat. 1761, provided that: "This Act [enacting section 2907 of this title, amending sections 1441, 1441a, 1441b, 1786, 1818, 1821, 1821a, 1833b, 1833e, 3345, and 3348 of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, and section 11 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, enacting provisions set out as notes under this section and sections 1441, 1441a, and 1831n of this title, and amending provisions set out as notes under sections 1437 and 1441a of this title] may be cited as the 'Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991'."

Pub. L. 102–233, title III, §301, Dec. 12, 1991, 105 Stat. 1767, provided that: "This title [amending sections 1441, 1441a, 1441b, 1786, 1818, 1821, 1833b, and 1833e of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, and section 11 of the Inspector General Act of 1978, Pub. L.

95–452, set out in the Appendix to Title 5, enacting provisions set out as notes under sections 1441 and 1441a of this title, and amending provisions set out as notes under sections 1437 and 1441a of this title] may be cited as the 'Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991'."

Pub. L. 102–18, §1, Mar. 23, 1991, 105 Stat. 58, provided that: "This Act [amending sections 1441a and 1812 of this title and enacting provisions set out as notes under section 1441a of this title] may be cited as the 'Resolution Trust Corporation Funding Act of 1991'."

§1422. Definitions

As used in this chapter—

(1)(A) BANK.—The term "Federal Home Loan Bank" or "Bank" means a bank established under the authority of this chapter.

(B) BANK SYSTEM.—The term "Federal Home Loan Bank System" means the Federal Home Loan Banks under the supervision of the Director.

(2) STATE.—The term "State", in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(3) The term "member" means any institution which has subscribed for the stock of a Federal Home Loan Bank.

(4) The term "home mortgage loan" means a loan made by a member upon the security of a home mortgage.

(5) The term "home mortgage" means a mortgage upon real estate, in fee simple, or on a leasehold (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 mortgage was executed, upon which is located, or which comprises or includes, one or more homes or other dwelling units, all of which may be defined by the Director and shall include, in addition to first mortgages, such classes of first liens as are commonly given to secure advances on real estate by institutions authorized under this chapter to become members, under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(6) The term "unpaid principal," when used in respect of a loan secured by a home mortgage means the principal thereof less the sum of (1) payments made on such principal, and (2) in cases where shares or stock are pledged as security for the loan, the payments made on such shares or stock plus earnings or dividends apportioned or credited thereon.

(7) An "amortized" or "installment" home mortgage loan shall, for the purposes of this chapter, be a home mortgage loan to be repaid or liquidated in not less than eight years by means of regular weekly, monthly, or quarterly payments made directly in reduction of the debt or upon stock or shares pledged as collateral for the repayment of such loan.

(8) SAVINGS ASSOCIATION.—The term "savings association" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(9) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" means—

(A) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]), and

(B) except as used in sections 1441a ¹ and 1441b of this title, an insured credit union (as defined in section 1752 of this title).

(10) COMMUNITY FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term "community financial institution" means a member—

(i) the deposits of which are insured under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]; and

(ii) that has, as of the date of the transaction at issue, less than \$1,000,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

(B) ADJUSTMENTS.—The \$1,000,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Director, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.

(11) DIRECTOR.—The term "Director" means the Director of the Federal Housing Finance Agency.

(12) AGENCY.—The term "Agency" means the Federal Housing Finance Agency, established under section 4511 of this title.

(July 22, 1932, ch. 522, §2, 47 Stat. 725; June 27, 1934, ch. 847, §507, 48 Stat. 1264; May 28, 1935, ch. 150, §1, 49 Stat. 293; July 14, 1952, ch. 723, §10(c), 66 Stat. 604; Pub. L. 86–70, §9(a), June 25, 1959, 73 Stat. 142; Pub. L. 86–624, §5(a), July 12, 1960, 74 Stat. 411; Pub. L. 87–779, §2(a), Oct. 9, 1962, 76 Stat. 779; Pub. L. 101–73, title VII, §§701(a), 710(b)(1), Aug. 9, 1989, 103 Stat. 411, 418; Pub. L. 106–102, title VI, §602, Nov. 12, 1999, 113 Stat. 1450; Pub. L. 110–289, div. A, title II, §§1203, 1204(8), (10), 1211(a), July 30, 2008, 122 Stat. 2785, 2786, 2790.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1441a of this title, referred to in par. (9)(B), was repealed by Pub. L. 111–203, title III, §364(b), July 21, 2010, 124 Stat. 1555.

The Federal Deposit Insurance Act, referred to in par. (10)(A)(i), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

AMENDMENTS

2008—Par. (1). Pub. L. 110–289, §1203(1), (2), redesignated par. (2) as (1) and struck out former par. (1). Prior to amendment, text read as follows: "The terms 'Finance Board' and 'Board' mean the Federal Housing Finance Board established under section 1422a of this title."

Par. (1)(B). Pub. L. 110–289, §1204(8), substituted "the Director" for "the Board".

Pars. (2) to (4). Pub. L. 110–289, §1203(2), redesignated pars. (3) to (5) as (2) to (4), respectively. Former par. (2) redesignated (1).

Par. (5). Pub. L. 110–289, §1204(8), substituted "the Director" for "the Board".

Pub. L. 110–289, §1203(2), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pars. (6) to (9). Pub. L. 110–289, §1203(2), (3), redesignated pars. (7) to (9) and (12) as (6) to (9), respectively. Former par. (6) redesignated (5).

Par. (10). Pub. L. 110–289, §1203(1), (3), redesignated par. (13) as (10) and struck out former par. (10). Prior to amendment, text read as follows: "The term 'Chairperson' means the Chairperson of the Board."

Par. (10)(A)(ii). Pub. L. 110–289, §1211(a), substituted "\$1,000,000,000" for "\$500,000,000".

Par. (10)(B). Pub. L. 110–289, §1211(a), substituted "\$1,000,000,000" for "\$500,000,000".

Pub. L. 110–289, §1204(10), substituted "the Director" for "the Finance Board".

Pars. (11) to (13). Pub. L. 110–289, §1203(1), (3), (4), added pars. (11) and (12), redesignated former pars. (12) and (13) as (9) and (10), respectively, and struck out former par. (11). Prior to amendment, text read as follows: "The term 'Secretary' means the Secretary of Housing and Urban Development."

1999—Par. (1). Pub. L. 106–102, §602(1), substituted "terms 'Finance Board' and 'Board' mean" for "term 'Board' means".

Par. (3). Pub. L. 106–102, §602(2), added par. (3) and struck out former par. (3) which read as follows: "The term 'State' includes the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States."

Par. (13). Pub. L. 106–102, §602(3), added par. (13).

1989—Pars. (1), (2). Pub. L. 101–73, §701(a)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which defined "board" and "Federal Home Loan Bank".

Par. (4). Pub. L. 101–73, §701(a)(2), which directed amendment of par. (4) by striking out "(except when used in reference to the member of the Board)" after "member", was executed by striking out "(except when used in reference to a member of the board)" as the probable intent of Congress.

Par. (5). Pub. L. 101–73, §710(b)(1), struck out "or a nonmember borrower" after "member".

Pars. (9) to (12). Pub. L. 101–73, §701(a)(3), added pars. (9) to (12) and struck out former par. (9) which

read as follows: "The term 'nonmember borrower' includes an institution authorized to secure advances from a Federal Home Loan Bank under the provisions of subsection (e) of section 1426 of this title."

1962—Subsec. (6). Pub. L. 87-779 substituted "upon which is located, or which comprises or includes, one or more homes or other dwelling units, all of which may be defined by the Board" for "upon which there is located a dwelling for not more than four families".

1960—Subsec. (3). Pub. L. 86-624 struck out reference to Territory of Hawaii.

1959—Subsec. (3). Pub. L. 86-70 substituted "Territory of Hawaii" for "Territories of Alaska and Hawaii".

1952—Subsec. (3). Act July 14, 1952, inserted "Guam,".

1935—Subsec. (6). Act May 28, 1935, substituted "four families" for "three families".

1934—Subsec. (6). Act June 27, 1934, struck out "first" before "mortgage" and inserted "or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed".

¹ [*See References in Text note below.*](#)

§§1422a, 1422b. Repealed. Pub. L. 110-289, div. A, title II, §1204(1), July 30, 2008, 122 Stat. 2785

Section 1422a, act July 22, 1932, ch. 522, §2A, as added Pub. L. 101-73, title VII, §702(a), Aug. 9, 1989, 103 Stat. 413; amended Pub. L. 102-550, title XIII, §1391, title XVI, §1608, Oct. 28, 1992, 106 Stat. 4009, 4089, established the Federal Housing Finance Board.

Section 1422b, act July 22, 1932, ch. 522, §2B, as added Pub. L. 101-73, title VII, §702(a), Aug. 9, 1989, 103 Stat. 414; amended Pub. L. 106-102, title VI, §606(e)(1), Nov. 12, 1999, 113 Stat. 1454, related to powers and duties of the Federal Housing Finance Board.

§1423. Federal Home Loan Bank districts; number and boundaries; establishment of Federal Home Loan Banks; names

(a) In general

As soon as practicable the Director shall divide the continental United States, Puerto Rico, the Virgin Islands, Guam, and the Territories of Alaska and Hawaii into not less than eight nor more than twelve districts. Such districts shall be apportioned with due regard to the convenience and customary course of business of the institutions eligible to and likely to subscribe for stock of a Federal Home Loan Bank to be formed under this chapter, but no such district shall contain a fractional part of any State. The districts thus created may be readjusted and new districts may from time to time be created by the Director, not to exceed twelve in all. Such districts shall be known as Federal Home Loan Bank districts and may be designated by number. As soon as practicable the Director shall establish, in each district, a Federal Home Loan Bank at such city as may be designated by the Director. Its title shall include the name of the city at which it is established.

(b) Authority to reduce districts

Notwithstanding subsection (a), the number of districts may be reduced to a number less than 8—

(1) pursuant to a voluntary merger between Banks, as approved pursuant to section 1446(b) of this title; or

(2) pursuant to a decision by the Director to liquidate a Bank pursuant to section 4617 of this title.

(July 22, 1932, ch. 522, §3, 47 Stat. 726; July 14, 1952, ch. 723, §10(c), 66 Stat. 604; Pub. L. 101-73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 110-289, div. A, title II, §§1204(8), 1210, July 30, 2008, 122 Stat. 2786, 2790.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–289, §1210, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 110–289, §1204(8), substituted "the Director" for "the Board" wherever appearing.

1989—Pub. L. 101–73 substituted "Board" for "board" wherever appearing.

1952—Act July 14, 1952, inserted "Guam," after "Virgin Islands,".

EXECUTIVE DOCUMENTS

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. C16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. C74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§1424. Eligibility for membership

(a) Criteria for eligibility

(1) In general

Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, community development financial institution, or any insured depository institution (as defined in section 1422 of this title), shall be eligible to become a member of a Federal Home Loan Bank if such institution—

(A) is duly organized under the laws of any State or of the United States;

(B) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994 [12 U.S.C. 4701 et seq.]; ¹ and

(C) makes such home mortgage loans as, in the judgment of the Director, are long-term loans (except that in the case of a savings bank, this subparagraph applies only if, in the judgment of the Director, its time deposits, as defined in section 461 of this title, warrant its making such loans).

(2) Qualified thrift lender

An insured depository institution that is not a member on January 1, 1989, may become a member of a Federal Home Loan Bank only if—

(A) the insured depository institution (other than a community financial institution) has at least 10 percent of its total assets in residential mortgage loans;

(B) the insured depository institution's financial condition is such that advances may be safely made to such institution; and

(C) the character of its management and its home-financing policy are consistent with sound and economical home financing.

(3) Certain institutions

An insured depository institution commencing its initial business operations after January 1, 1989, may become a member of a Federal Home Loan Bank if it complies with regulations and orders prescribed by the Director for the 10 percent asset requirement (described in the ² paragraph (2)) within one year after the commencement of its operations.

(4) Limited exemption for community financial institutions

A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).

(5) Certain privately insured credit unions

(A) In general

Subject to the requirements of subparagraph (B), a credit union shall be treated as an insured depository institution for purposes of determining the eligibility of such credit union for membership in a Federal home loan bank under paragraphs (1), (2), and (3).

(B) Certification by appropriate supervisor

(i) In general

For purposes of this paragraph and subject to clause (ii), a credit union which lacks Federal deposit insurance and which has applied for membership in a Federal home loan bank may be treated as meeting all the eligibility requirements for Federal deposit insurance only if the appropriate supervisor of the State in which the credit union is chartered has determined that the credit union meets all the eligibility requirements for Federal deposit insurance as of the date of the application for membership.

(ii) Certification deemed valid

If, in the case of any credit union to which clause (i) applies, the appropriate supervisor of the State in which such credit union is chartered fails to make a determination pursuant to such clause by the end of the 6-month period beginning on the date of the application, the credit union shall be deemed to have met the requirements of clause (i).

(C) Security interests of Federal home loan bank not avoidable

Notwithstanding any provision of State law authorizing a conservator or liquidating agent of a credit union to repudiate contracts, no such provision shall apply with respect to—

(i) any extension of credit from any Federal home loan bank to any credit union which is a member of any such bank pursuant to this paragraph; or

(ii) any security interest in the assets of such credit union securing any such extension of credit.

(D) Protection for certain Federal home loan bank advances

Notwithstanding any State law to the contrary, if a Bank makes an advance under section 1430 of this title to a State-chartered credit union that is not federally insured—

(i) the Bank's interest in any collateral securing such advance has the same priority and is afforded the same standing and rights that the security interest would have had if the advance had been made to a federally insured credit union; and

(ii) the Bank has the same right to access such collateral that the Bank would have had if the advance had been made to a federally insured credit union.

(b) Location requirement

An institution eligible to become a member under this section may become a member only of, or secure advances from, the Federal Home Loan Bank of the district in which is located the institution's principal place of business, or of the bank of a district adjoining such district, if demanded by convenience and then only with the approval of the Director.

(c) Inspection and regulation requirements

Notwithstanding the provisions of clause (2) of subsection (a) of this section requiring inspection and regulation under law as a condition with respect to eligibility for membership, any building and loan association which would be eligible to become a member of a Federal Home Loan Bank except for the fact that it is not subject to inspection and regulation under the banking laws or similar laws of the State in which such association is organized shall, upon subjecting itself to such inspection and regulation as the Director shall prescribe, be eligible to become a member.

(July 22, 1932, ch. 522, §4, 47 Stat. 726; June 13, 1933, ch. 64, §3, 48 Stat. 129; Pub. L. 101-73, title VII, §§701(b)(1), (3)(A), 704(a), 710(b)(1), Aug. 9, 1989, 103 Stat. 412, 415, 418; Pub. L. 106-102, title VI, §605, Nov. 12, 1999, 113 Stat. 1452; Pub. L. 110-289, div. A, title II, §§1204(8), 1206, July

30, 2008, 122 Stat. 2786, 2787; Pub. L. 114–94, div. G, title LXXXII, §82001(a), Dec. 4, 2015, 129 Stat. 1795.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Community Development Banking and Financial Institutions Act of 1994, referred to in subsec. (a)(1)(B), is subtitle A (§§101–121) of title I of Pub. L. 103–325, Sept. 23, 1994, 108 Stat. 2163, which is classified principally to subchapter I (§4701 et seq.) of chapter 47 of this title. For complete classification of subtitle A to the Code, see Short Title note set out under section 4701 of this title and Tables.

Section 461 of this title, referred to in subsec. (a)(1)(C), was in the original "section 19 of the Federal Reserve Act". Definition provisions of section 19 are classified to section 461 of this title. Other provisions of section 19 are classified to sections 142, 371b, 371b–1, 374, 374a, 463 to 466, 505, and 506 of this title.

AMENDMENTS

2015—Subsec. (a)(5). Pub. L. 114–94 added par. (5).

2008—Subsec. (a)(1). Pub. L. 110–289, §1206(1), which directed insertion of "community development financial institution," after "savings bank," was executed by making the insertion after "savings bank," the first time appearing.

Subsec. (a)(1)(B). Pub. L. 110–289, §1206(2), which directed insertion of "or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994." after "United States," was executed by making the insertion after "United States" to reflect the probable intent of Congress.

Subsecs. (a)(1)(C), (3), (b), (c). Pub. L. 110–289, §1204(8), substituted "the Director" for "the Board" wherever appearing.

1999—Subsec. (a)(2) to (4). Pub. L. 106–102 inserted "(other than a community financial institution)" after "institution" in par. (2)(A), designated concluding provisions of par. (2) as par. (3), inserted heading and substituted "paragraph (2)" for "preceding sentence", and added par. (4).

1989—Subsec. (a). Pub. L. 101–73, §704(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, or savings bank shall be eligible to become a member of, or a nonmember borrower of, a Federal Home Loan Bank if such institution (1) is duly organized under the laws of any State or of the United States; (2) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States; and (3) makes such home mortgage loans as in the judgment of the board, are long-term loans (and in the case of a savings bank if, in the judgment of the board, its time deposits, as defined in section 461 of this title, warrant its making such loans). No institution shall be eligible to become a member of, or a nonmember borrower of, a Federal Home Loan Bank if, in the judgment of the board, its financial condition is such that advances may not safely be made to such institution or the character of its management or its home-financing policy is inconsistent with sound and economical home financing, or with the purposes of this chapter."

Subsec. (b). Pub. L. 101–73, §710(b)(1), struck out "or a nonmember borrower" after "eligible to become a member".

Pub. L. 101–73, §701(b)(1), (3)(A), substituted "Board" for "board".

Subsec. (c). Pub. L. 101–73, §701(b)(1), (3)(A), substituted "Board" for "board".

1933—Subsec. (d). Act June 13, 1933, struck out subsec. (d) which provided for direct loans to homeowners. See chapter 12 (§1461 et seq.) of this title.

¹ So in original.

² So in original. The word "the" probably should not appear.

§§1425 to 1425b. Repealed. Pub. L. 101–73, title VII, §§705, 716, 720, Aug. 9, 1989, 103 Stat. 416, 421, 423

Section 1425, acts July 22, 1932, ch. 522, §5, 47 Stat. 727; Dec. 24, 1969, Pub. L. 91–152, title IV, §416(a),

83 Stat. 401, related to limitation on lawful contract rate of interest receivable by members and nonmember borrowers, and applicability to home mortgage loans on single-family dwellings.

Section 1425a, act July 22, 1932, ch. 522, §5A, as added June 27, 1950, ch. 369, §1, 64 Stat. 256; amended Aug. 11, 1955, ch. 783, title I, §109(a)(3), 69 Stat. 640; Sept. 21, 1968, Pub. L. 90-505, §4, 82 Stat. 856; Mar. 31, 1980, Pub. L. 96-221, title I, §104(b), title IV, §405, 94 Stat. 139, 158; Oct. 8, 1980, Pub. L. 96-399, title III, §325(a), 94 Stat. 1648; Oct. 15, 1982, Pub. L. 97-320, title III, §332, 96 Stat. 1504; Oct. 17, 1984, Pub. L. 98-479, title II, §207, 98 Stat. 2235, related to liquidity requirements for savings and loan associations and other members.

Section 1425b, act July 22, 1932, ch. 522, §5B, as added Sept. 21, 1966, Pub. L. 89-597, §4, 80 Stat. 824; amended Sept. 21, 1968, Pub. L. 90-505, §2(c), 82 Stat. 856; Dec. 23, 1969, Pub. L. 91-151, §2(b), 83 Stat. 372; Oct. 29, 1974, Pub. L. 93-501, title I, §103, title III, §303, 88 Stat. 1558, 1560; Nov. 5, 1979, Pub. L. 96-104, title II, §203, 93 Stat. 793; Dec. 28, 1979, Pub. L. 96-161, title II, §210, 93 Stat. 1239; Mar. 31, 1980, Pub. L. 96-221, title II, §207(b)(7)-(9), title V, §529, 94 Stat. 144, 168, related to rate of interest payable on deposits, shares or withdrawable accounts by members, insured institutions and other nonmember financial institutions.

§1426. Capital structure of Federal home loan banks

(a) Regulations

(1) Capital standards

Not later than 18 months after November 12, 1999, the Director shall issue regulations prescribing uniform capital standards applicable to each Federal home loan bank, which shall require each such bank to meet—

- (A) the leverage requirement specified in paragraph (2); and
- (B) the risk-based capital requirements, in accordance with paragraph (3).

(2) Leverage requirement

(A) In general

The leverage requirement shall require each Federal home loan bank to maintain a minimum amount of total capital based on the total assets of the bank and shall be 5 percent.

(B) Treatment of stock and retained earnings

In determining compliance with the minimum leverage ratio established under subparagraph (A), the paid-in value of the outstanding Class B stock and the amount of retained earnings shall be multiplied by 1.5, and such higher amounts shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio, except that a Federal home loan bank's total capital (determined without taking into account any such multiplier) shall not be less than 4 percent of the total assets of the bank.

(3) Risk-based capital standards

(A) Risk-based capital standards

The Director shall, by regulation, establish risk-based capital standards for the Federal Home Loan Banks to ensure that the Federal Home Loan Banks operate in a safe and sound manner, with sufficient permanent capital and reserves to support the risks that arise in the operations and management of the Federal Home Loans Banks.

(B) Consideration of other risk-based standards

In establishing the risk-based standard under subparagraph (A), the Director shall take due consideration of any risk-based capital test established pursuant to section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) for the enterprises (as defined in that Act [12 U.S.C. 4501 et seq.]), with such modifications as the Director determines to be appropriate to reflect differences in operations between the Federal home loan banks and those enterprises.

(4) Other regulatory requirements

The regulations issued by the Director under paragraph (1) shall—

(A) permit each Federal home loan bank to issue, with such rights, terms, and preferences, not inconsistent with this chapter and the regulations issued hereunder, as the board of directors of that bank may approve, any 1 or more of—

- (i) Class A stock, which shall be redeemable in cash and at par 6 months following submission by a member of a written notice of its intent to redeem such shares; and
- (ii) Class B stock, which shall be redeemable in cash and at par 5 years following submission by a member of a written notice of its intent to redeem such shares;

(B) provide that the stock of a Federal home loan bank may be issued to and held by only members of the bank, and that a bank may not issue any stock other than as provided in this section;

(C) prescribe the manner in which stock of a Federal home loan bank may be sold, transferred, redeemed, or repurchased; and

(D) provide the manner of disposition of outstanding stock held by, and the liquidation of any claims of the Federal home loan bank against, an institution that ceases to be a member of the bank, through merger or otherwise, or that provides notice of intention to withdraw from membership in the bank.

(5) Definitions of capital

For purposes of determining compliance with the capital standards established under this subsection—

(A) permanent capital of a Federal home loan bank shall include—

- (i) the amounts paid for the Class B stock; and
- (ii) the retained earnings of the bank (as determined in accordance with generally accepted accounting principles); and

(B) total capital of a Federal home loan bank shall include—

- (i) permanent capital;
- (ii) the amounts paid for the Class A stock;
- (iii) consistent with generally accepted accounting principles, and subject to the regulation of the Director, a general allowance for losses, which may not include any reserves or allowances made or held against specific assets; and
- (iv) any other amounts from sources available to absorb losses incurred by the bank that the Director determines by regulation to be appropriate to include in determining total capital.

(6) Transition period

Notwithstanding any other provision of this chapter, the requirements relating to purchase and retention of capital stock of a Federal home loan bank by any member thereof in effect on the day before November 12, 1999, shall continue in effect with respect to each Federal home loan bank until the regulations required by this subsection have taken effect and the capital structure plan required by subsection (b) has been approved by the Director and implemented by such bank.

(b) Capital structure plan

(1) Approval of plans

Not later than 270 days after the date of publication by the Director of final regulations in accordance with subsection (a), the board of directors of each Federal home loan bank shall submit for approval by the Director a plan establishing and implementing a capital structure for such bank that—

- (A) the board of directors determines is best suited for the condition and operation of the bank and the interests of the members of the bank;
- (B) meets the requirements of subsection (c); and
- (C) meets the minimum capital standards and requirements established under subsection (a) and other regulations prescribed by the Director.

(2) Approval of modifications

The board of directors of a Federal home loan bank shall submit to the Director for approval any modifications that the bank proposes to make to an approved capital structure plan.

(c) Contents of plan

The capital structure plan of each Federal home loan bank shall contain provisions addressing each of the following:

(1) Minimum investment

(A) In general

Each capital structure plan of a Federal home loan bank shall require each member of the bank to maintain a minimum investment in the stock of the bank, the amount of which shall be determined in a manner to be prescribed by the board of directors of each bank and to be included as part of the plan.

(B) Investment alternatives

(i) In general

In establishing the minimum investment required for each member under subparagraph (A), a Federal home loan bank may, in its discretion, include any 1 or more of the requirements referred to in clause (ii), or any other provisions approved by the Director.

(ii) Authorized requirements

A requirement is referred to in this clause if it is a requirement for—

(I) a stock purchase based on a percentage of the total assets of a member; or

(II) a stock purchase based on a percentage of the outstanding advances from the bank to the member.

(C) Minimum amount

Each capital structure plan of a Federal home loan bank shall require that the minimum stock investment established for members shall be set at a level that is sufficient for the bank to meet the minimum capital requirements established by the Director under subsection (a).

(D) Adjustments to minimum required investment

The capital structure plan of each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust the minimum investment required of each member of that bank, as necessary to ensure that the bank remains in compliance with applicable minimum capital levels established by the Director, and shall require each member to comply promptly with any adjustments to the required minimum investment.

(2) Transition rule

(A) In general

The capital structure plan of each Federal home loan bank shall specify the date on which it shall take effect, and may provide for a transition period of not longer than 3 years to allow the bank to come into compliance with the capital requirements prescribed under subsection (a), and to allow any institution that was a member of the bank on November 12, 1999, to come into compliance with the minimum investment required pursuant to the plan.

(B) Interim purchase requirements

The capital structure plan of a Federal home loan bank may allow any member referred to in subparagraph (A) that would be required by the terms of the capital structure plan to increase its investment in the stock of the bank to do so in periodic installments during the transition period.

(3) Disposition of shares

The capital structure plan of a Federal home loan bank shall provide for the manner of

disposition of any stock held by a member of that bank that terminates its membership or that provides notice of its intention to withdraw from membership in that bank.

(4) Classes of stock

(A) In general

The capital structure plan of a Federal home loan bank shall afford each member of that bank the option of maintaining its required investment in the bank through the purchase of any combination of classes of stock authorized by the board of directors of the bank and approved by the Director in accordance with its regulations.

(B) Rights requirement

A Federal home loan bank shall include in its capital structure plan provisions establishing terms, rights, and preferences, including minimum investment, dividends, voting, and liquidation preferences of each class of stock issued by the bank, consistent with regulations of the Director and market requirements.

(C) Reduced minimum investment

The capital structure plan of a Federal home loan bank may provide for a reduced minimum stock investment for any member of that bank that elects to purchase Class B 1 in a manner that is consistent with meeting the minimum capital requirements of the bank, as established by the Director.

(D) Liquidation of claims

The capital structure plan of a Federal home loan bank shall provide for the liquidation in an orderly manner, as determined by the bank, of any claim of that bank against a member, including claims for any applicable prepayment fees or penalties resulting from prepayment of advances prior to stated maturity.

(5) Limited transferability of stock

The capital structure plan of a Federal home loan bank shall—

(A) provide that any stock issued by that bank shall be available only to and held only by members of that bank and tradable only between that bank and its members; and

(B) establish standards, criteria, and requirements for the issuance, purchase, transfer, retirement, and redemption of stock issued by that bank.

(6) Bank review of plan

Before filing a capital structure plan with the Director, each Federal home loan bank shall conduct a review of the plan by—

(A) an independent certified public accountant, to ensure, to the extent possible, that implementation of the plan would not result in any write-down of the redeemable bank stock investment of its members; and

(B) at least one major credit rating agency, to determine, to the extent possible, whether implementation of the plan would have any material effect on the credit ratings of the bank.

(d) Termination of membership

(1) Voluntary withdrawal

Any member may withdraw from a Federal home loan bank if the member provides written notice to the bank of its intent to do so and if, on the date of withdrawal, there is in effect a certification by the Director that the withdrawal will not cause the Federal Home Loan Bank System to fail to meet its obligation under section 1441b(f)(2)(C) of this title to contribute to the debt service for the obligations issued by the Resolution Funding Corporation. The applicable stock redemption notice periods shall commence upon receipt of the notice by the bank. Upon the expiration of the applicable notice period for each class of redeemable stock, the member may

surrender such stock to the bank, and shall be entitled to receive in cash the par value of the stock. During the applicable notice periods, the member shall be entitled to dividends and other membership rights commensurate with continuing stock ownership.

(2) Involuntary withdrawal

(A) In general

The board of directors of a Federal home loan bank may terminate the membership of any institution if, subject to regulations of the Director, it determines that—

- (i) the member has failed to comply with a provision of this chapter or any regulation prescribed under this chapter; or
- (ii) the member has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a Federal or State authority with regulatory and supervisory responsibility for the member.

(B) Stock disposition

An institution, the membership of which is terminated in accordance with subparagraph (A)—

- (i) shall surrender redeemable stock to the Federal home loan bank, and shall receive in cash the par value of the stock, upon the expiration of the applicable notice period under subsection (a)(4)(A);
- (ii) shall receive any dividends declared on its redeemable stock, during the applicable notice period under subsection (a)(4)(A); and
- (iii) shall not be entitled to any other rights or privileges accorded to members after the date of the termination.

(C) Commencement of notice period

With respect to an institution, the membership of which is terminated in accordance with subparagraph (A), the applicable notice period under subsection (a)(4) for each class of redeemable stock shall commence on the earlier of—

- (i) the date of such termination; or
- (ii) the date on which the member has provided notice of its intent to redeem such stock.

(3) Liquidation of indebtedness

Upon the termination of the membership of an institution for any reason, the outstanding indebtedness of the member to the bank shall be liquidated in an orderly manner, as determined by the bank and, upon the extinguishment of all such indebtedness, the bank shall return to the member all collateral pledged to secure the indebtedness.

(e) Redemption of excess stock

(1) In general

A Federal home loan bank, in its sole discretion, may redeem or repurchase, as appropriate, any shares of Class A or Class B stock issued by the bank and held by a member that are in excess of the minimum stock investment required of that member.

(2) Excess stock

Shares of stock held by a member shall not be deemed to be "excess stock" for purposes of this subsection by virtue of a member's submission of a notice of intent to withdraw from membership or termination of its membership in any other manner.

(3) Priority

A Federal home loan bank may not redeem any excess Class B stock prior to the end of the 5-year notice period, unless the member has no Class A stock outstanding that could be redeemed as excess.

(f) Impairment of capital

If the Director or the board of directors of a Federal home loan bank determines that the bank has

incurred or is likely to incur losses that result in or are expected to result in charges against the capital of the bank, the bank shall not redeem or repurchase any stock of the bank without the prior approval of the Director while such charges are continuing or are expected to continue. In no case may a bank redeem or repurchase any applicable capital stock if, following the redemption, the bank would fail to satisfy any minimum capital requirement.

(g) Rejoining after divestiture of all shares

(1) In general

Except as provided in paragraph (2), and notwithstanding any other provision of this chapter, an institution that divests all shares of stock in a Federal home loan bank may not, after such divestiture, acquire shares of any Federal home loan bank before the end of the 5-year period beginning on the date of the completion of such divestiture, unless the divestiture is a consequence of a transfer of membership on an uninterrupted basis between banks.

(2) Exception for withdrawals from membership before 1998

Any institution that withdrew from membership in any Federal home loan bank before December 31, 1997, may acquire shares of a Federal home loan bank at any time after that date, subject to the approval of the Director and the requirements of this chapter.

(h) Treatment of retained earnings

(1) In general

The holders of the Class B stock of a Federal home loan bank shall own the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

(2) Exception

Except as specifically provided in this section or through the declaration of a dividend or a capital distribution by a Federal home loan bank, or in the event of liquidation of the bank, a member shall have no right to withdraw or otherwise receive distribution of any portion of the retained earnings of the bank.

(3) Limitation

A Federal home loan bank may not make any distribution of its retained earnings unless, following such distribution, the bank would continue to meet all applicable capital requirements.

(July 22, 1932, ch. 522, §6, 47 Stat. 727; June 27, 1934, ch. 847, §509, 48 Stat. 1264; May 28, 1935, ch. 150, §2, 49 Stat. 293; June 27, 1950, ch. 369, §2, 64 Stat. 257; Aug. 11, 1955, ch. 783, title I, §109(a)(1), 69 Stat. 640; Pub. L. 87–210, §§1, 2, Sept. 8, 1961, 75 Stat. 482, 483; Pub. L. 96–153, title III, §327, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 97–320, title III, §§353, 355, Oct. 15, 1982, 96 Stat. 1507, 1508; Pub. L. 97–457, §16, Jan. 12, 1983, 96 Stat. 2509; Pub. L. 101–73, title VII, §§701(b)(1), (3)(A), 706, 710(b)(2), (3), 715, Aug. 9, 1989, 103 Stat. 412, 416, 418, 421; Pub. L. 106–102, title VI, §608, Nov. 12, 1999, 113 Stat. 1456; Pub. L. 106–569, title XII, §1224, Dec. 27, 2000, 114 Stat. 3036; Pub. L. 110–289, div. A, title I, §1110(b), title II, §1204(4), (10), July 30, 2008, 122 Stat. 2676, 2786.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, referred to in subsec. (a)(3)(B), is title XIII of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to chapter 46 (§4501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 4501 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–289, §1204(10), substituted "the Director" for "the Finance Board" wherever appearing in subsecs. (a)(1), (3)(B), (4) to (6), (b)(1)(C), (2), (c)(1), (4)(A), (C), (6), (d)(1), (f), and (g).

Subsec. (a)(3)(A). Pub. L. 110–289, §1110(b)(1), added subpar. (A) and struck out former subpar. (A).

Prior to amendment, text read as follows: "Each Federal home loan bank shall maintain permanent capital in an amount that is sufficient, as determined in accordance with the regulations of the Finance Board, to meet—

"(i) the credit risk to which the Federal home loan bank is subject; and

"(ii) the market risk, including interest rate risk, to which the Federal home loan bank is subject, based on a stress test established by the Finance Board that rigorously tests for changes in market variables, including changes in interest rates, rate volatility, and changes in the shape of the yield curve."

Subsec. (a)(3)(B). Pub. L. 110-289, §1110(b)(2), substituted "(A)" for "(A)(ii)".

Subsec. (b)(1). Pub. L. 110-289, §1204(4)(A), (10), substituted "the Director" for "the Finance Board" and "approval by the Director" for "Finance Board approval" in introductory provisions.

Subsecs. (c)(4)(B), (d)(2)(A). Pub. L. 110-289, §1204(4)(B), substituted "regulations of the Director" for "Finance Board regulations".

2000—Subsec. (a)(1). Pub. L. 106-569 substituted "18 months" for "1 year" in introductory provisions.

1999—Pub. L. 106-102 amended section generally, substituting present provisions for provisions authorizing banks to issue capital stock and providing for minimum subscriptions, retirement of oversubscriptions, cancellation of oversubscriptions, aggregate unpaid loan principal, reports and information, payments for stock, transfer or hypothecation of stock, withdrawal or removal of members, surrender and cancellation of stock, prepayment penalties, disposal of stock, dividends, and acquisition of membership after expiration of period of withdrawal.

1989—Subsec. (a). Pub. L. 101-73, §§701(b)(1), (3)(A), 706(1), redesignated subsec. (b) as (a), substituted "Board" for "board", and struck out former subsec. (a) which related to minimum amount of capital stock and subscription books.

Subsec. (b). Pub. L. 101-73, §§701(b)(1), (3)(A), 706(1), redesignated subsec. (c) as (b) and substituted "Board may" for "Federal Home Loan Bank Board may" in par. (1), and "The Board" for "The Federal Home Loan Bank Board" in par. (5). Former subsec. (b) redesignated (a).

Subsecs. (c), (d). Pub. L. 101-73, §706(1), redesignated subsecs. (d) and (h) as (c) and (d), respectively. Former subsec. (c) redesignated (b).

Subsec. (e). Pub. L. 101-73, §710(b)(3), which directed amendment of subsec. (e) by striking out "or deprive any nonmember borrower of the privilege of further advances," after "remove any member from membership," was executed by striking "or deprive any nonmember borrower of the privilege of obtaining further advances," as the probable intent of Congress.

Pub. L. 101-73, §710(b)(2), struck out "or nonmember borrower" after "such member" wherever appearing.

Pub. L. 101-73, §706(2), substituted "If any member's membership in a Federal Home Loan Bank is terminated, the indebtedness of such member to the Federal Home Loan Bank shall be liquidated in an orderly manner (as determined by the Federal Home Loan Bank), and upon completion of such liquidation, the capital stock in the Federal Home Loan Bank owned by such member shall be surrendered and canceled. Any such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties or other fees applicable to such prepayment." for "In any such case, the indebtedness of such member or nonmember borrower to the Federal Home Loan Bank shall be liquidated, and the capital stock in the Federal Home Loan Bank owned by such member shall be surrendered and canceled, except that in the case of a voluntary withdrawal, such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties applicable to such prepayment."

Pub. L. 101-73, §§701(b)(1), (3)(A), 706(1), redesignated subsec. (i) as (e), substituted "Board" for "board" wherever appearing, and struck out former subsec. (e) which related to loans to institutions not authorized to subscribe to stock.

Subsec. (f). Pub. L. 101-73, §§701(b)(1), (3)(A), 706(1), redesignated subsec. (j) as (f), substituted "Board" for "board", and struck out former subsec. (f) which related to subscription by United States, maximum amounts, and payments.

Subsec. (g). Pub. L. 101-73, §706(1), redesignated subsec. (k) as (g) and struck out former subsec. (g) which related to retirement of stock of United States.

Subsec. (h). Pub. L. 101-73, §715, substituted "10" for "five".

Pub. L. 101-73, §706(3), substituted "charter as a Federal savings association (as defined in section 1813 of this title)" for "charter from the Federal Home Loan Bank Board".

Pub. L. 101-73, §706(1), redesignated subsec. (m) as (h). Former subsec. (h) redesignated (d).

Subsecs. (i) to (k). Pub. L. 101-73, §706(1), redesignated former subsecs. (i) to (k) as (e) to (g), respectively.

Subsec. (m). Pub. L. 101-73, §706(1), redesignated former subsec. (m) as (h).

1983—Subsec. (m). Pub. L. 97-457 substituted "banks or in connection with obtaining a charter from the Federal Home Loan Bank Board" for "Banks" after "between".

1982—Subsec. (c)(2). Pub. L. 97–320, §353, struck out cl. (i) limitations which had prohibited members from reducing stock to less than the amount held on Sept. 8, 1961, except for a reduction at any time to not less than 2 percent of its aggregate unpaid loan principal as of the beginning of the calendar year in which reduction was made, but not less than \$500, or if reduced to less than 2 percent, such reduction to be in the discretion of the Board; and reenacted cl. (ii) limitations as par. (2), substituting "the Board defining such term" for "said Board defining said term".

Subsec. (i). Pub. L. 97–320, §355(a), provided for treatment of a liquidation of indebtedness, in the case of a voluntary withdrawal of an institution from membership, as a prepayment of the indebtedness, subject to applicable prepayment penalties.

Subsec. (m). Pub. L. 97–320, §355(b), added subsec. (m).

1979—Subsec. (c)(2)(ii). Pub. L. 96–153 substituted "twenty" for "twelve".

1961—Subsec. (c). Pub. L. 87–210, §1, amended subsection generally, and among other changes, authorized the bank to adjust at the end of each calendar year, under Board regulations, the stock held by each member, to retire stock of members in excess of required amounts, prohibited members to reduce stock to less than the amount held on Sept. 8, 1961, except for a reduction at any time to not less than 2 percent of its aggregate unpaid loan principal as of the beginning of the calendar year in which reduction is made, but not less than \$500, or if reduced to less than 2 percent, such reduction to be in the discretion of the Board, provided that no bank shall act so as to cause the aggregate outstanding advances, within the meaning of regulations of the Board defining said term, to exceed 12 times the amounts paid in by members for outstanding capital stock held by such members, defined term "aggregate unpaid loan principal" and authorized the board to require members to submit reports and information for purposes of this subsection.

Subsec. (l). Pub. L. 87–210, §2, repealed subsec. (l) which required members to acquire, hold and maintain their stock holding in an amount equal to at least 2 per centum of the aggregate of the unpaid principal of such member's home mortgage loans, home-purchase contracts, and similar obligations, but not less than \$500, and provided for the retirement of Government-owned stock.

1955—Subsec. (i). Act Aug. 11, 1955, provided that a Federal savings and loan association may not withdraw voluntarily, inserted proviso clause in item (ii), and inserted provisions authorizing removal of a member institution which has a management or home-financing policy of a character inconsistent with sound and economical home financing or with the purposes of this chapter.

1950—Subsec. (l). Act June 27, 1950, added subsec. (l).

1935—Subsec. (k). Act May 28, 1935, omitted exception clause relating to stock held by the United States.

1934—Subsecs. (c), (e). Act June 27, 1934, substituted "\$500" for "\$1,500".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87–210, §7, Sept. 8, 1961, 75 Stat. 485, provided that: "This Act [amending this section and section 1727 of this title and enacting provisions set out as a note under section 1727 of this title] shall become effective on January 1 next following the date of its enactment [Sept. 8, 1961]."

¹ So in original. Probably should be "Class B stock".

§1426a. Exclusion from certain requirements

(a) In general

The Federal Home Loan Banks shall be exempt from compliance with—

- (1) sections 78m(e), 78n(a), and 78n(c) of title 15, and related Commission regulations;
- (2) section 78o of title 15, and related Commission regulations, with respect to transactions in the capital stock of a Federal Home Loan Bank;
- (3) section 78q–1 of title 15, and related Commission regulations, with respect to the transfer of the securities of a Federal Home Loan Bank; and
- (4) the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.].

(b) Member exemption

The members of the Federal Home Loan Bank System shall be exempt from compliance with

sections 78m(d), 78m(f), 78m(g), 78n(d), and 78p of title 15, and related Commission regulations, with respect to ownership of or transactions in the capital stock of the Federal Home Loan Banks by such members.

(c) Exempted and Government securities

(1) Capital stock

The capital stock issued by each of the Federal Home Loan Banks under section 1426 of this title are—

- (A) exempted securities, within the meaning of section 77c(a)(2) of title 15; and
- (B) exempted securities, within the meaning of section 78c(a)(12)(A) of title 15, except to the extent provided in section 78oo of title 15.

(2) Other obligations

The debentures, bonds, and other obligations issued under section 1431 of this title are—

- (A) exempted securities, within the meaning of section 77c(a)(2) of title 15;
- (B) government securities, within the meaning of section 78c(a)(42) of title 15; and
- (C) government securities, within the meaning of section 80a-2(a)(16) of title 15.

(3) Brokers and dealers

A person (other than a Federal Home Loan Bank effecting transactions for members of the Federal Home Loan Bank System) that effects transactions in the capital stock or other obligations of a Federal Home Loan Bank, for the account of others or for that person's own account, as applicable, is a broker or dealer, as those terms are defined in paragraphs (4) and (5), respectively, of section 78c(a) of title 15, but is excluded from the definition of—

- (A) the term "government securities broker" under section 78c(a)(43) of title 15; and
- (B) the term "government securities dealer" under section 78c(a)(44) of title 15.

(d) Exemption from reporting requirements

The Federal Home Loan Banks shall be exempt from periodic reporting requirements under the securities laws pertaining to the disclosure of—

- (1) related party transactions that occur in the ordinary course of the business of the Banks with members; and
- (2) the unregistered sales of equity securities.

(e) Tender offers

Commission rules relating to tender offers shall not apply in connection with transactions in the capital stock of the Federal Home Loan Banks.

(f) Regulations

(1) In general

The Commission shall promulgate such rules and regulations as may be necessary or appropriate in the public interest or in furtherance of this section and the exemptions provided in this section.

(2) Considerations

In issuing regulations under this section, the Commission shall consider the distinctive characteristics of the Federal Home Loan Banks when evaluating—

- (A) the accounting treatment with respect to the payment to the Resolution Funding Corporation;
- (B) the role of the combined financial statements of the Federal Home Loan Banks;
- (C) the accounting classification of redeemable capital stock; and
- (D) the accounting treatment related to the joint and several nature of the obligations of the Banks.

(g) Definitions

As used in this section—

(1) the terms "Bank", "Federal Home Loan Bank", "member", and "Federal Home Loan Bank System" have the same meanings as in section 1422 of this title;

(2) the term "Commission" means the Securities and Exchange Commission; and

(3) the term "securities laws" has the same meaning as in section 78c(a)(47) of title 15.

(Pub. L. 110–289, div. A, title II, §1208, July 30, 2008, 122 Stat. 2788.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Trust Indenture Act of 1939, referred to in subsec. (a)(4), is title III of act May 27, 1933, ch. 38, as added Aug. 3, 1939, ch. 411, 53 Stat. 1149, which is classified generally to subchapter III (§77aaa et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77aaa of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the Housing and Economic Recovery Act of 2008, and also as part of the Federal Housing Finance Regulatory Reform Act of 2008, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

§1427. Directors

(a) Number; election; qualifications; conflicts of interest

(1) In general

Subject to paragraphs (2) through (4), the management of each Federal Home Loan Bank shall be vested in a board of 13 directors, or such other number as the Director determines appropriate.

(2) Board makeup

The board of directors of each Bank shall be comprised of—

(A) member directors, who shall comprise at least the majority of the members of the board of directors; and

(B) independent directors, who shall comprise not fewer than 2/5 of the members of the board of directors.

(3) Selection criteria

(A) In general

Each member of the board of directors shall be—

(i) elected by plurality vote of the members, in accordance with procedures established under this section; and

(ii) a citizen of the United States.

(B) Independent director criteria

(i) In general

Each independent director that is not a public interest director under clause (ii) shall have demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management, or such other knowledge or expertise as the Director may provide by regulation.

(ii) Public interest

Not fewer than 2 of the independent directors shall have more than 4 years of experience in representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

(iii) Conflicts of interest

No independent director may, during the term of service on the board of directors, serve as an officer of any Federal Home Loan Bank or as a director, officer, or employee of any member of a Bank, or of any person that receives advances from a Bank.

(4) Definitions

For purposes of this section, the following definitions shall apply:

(A) Independent director

The terms "independent director" and "independent directorship" mean a member of the board of directors of a Federal Home Loan Bank who is a bona fide resident of the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

(B) Member director

The terms "member director" and "member directorship" mean a member of the board of directors of a Federal Home Loan Bank who is an officer or director of a member institution that is located in the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

(b) Directorships

(1) Member directorships

Each member directorship shall be designated by the Director as representing the members located in a particular State, and shall be filled by a person who is an officer or director of a member located in that State, each of which members shall be entitled to nominate an eligible person for such directorship, and such office shall be filled from such nominees by a plurality of the votes which such members may cast in an election held for the purpose of filling such office, in which election each such member may cast for such office a number of votes equal to the number of shares of stock in such bank required by this chapter to be held by such member at the end of the calendar year next preceding the election, as determined pursuant to regulation of the Director, but not in excess of the average number of shares of stock in such bank required by this chapter to be held at the end of such calendar year by the respective members of such bank located in such State, as so determined. No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director. As used in this subsection and in subsection (c) of this section, the term "member" means a member of a Federal home loan bank which was a member of such bank at the end of such calendar year.

(2) Independent directorships

(A) Elections

Each independent director—

(i) shall be elected by the members entitled to vote, from among eligible persons nominated, after consultation with the Advisory Council of the Bank, by the board of directors of the Bank; and

(ii) shall be elected by a plurality of the votes of the members of the Bank at large, with each member having the number of votes for each such directorship as it has under paragraph (1) in an election to fill member directorships.

(B) Criteria

Nominees shall meet all applicable requirements prescribed in this section.

(C) Nomination and election procedures

Procedures for nomination and election of independent directors shall be prescribed by the bylaws of each Federal Home Loan Bank, in a manner consistent with the rules and regulations of the Agency.

(c) Apportionment among States in bank district; designation of State location

The number of member directorships designated as representing the members located in each separate State in a bank district shall be determined by the Director in the approximate ratio of the percentage of the required stock, as determined pursuant to regulation of the Director, of the members located in that State at the end of the calendar year next preceding the date of the election to the total required stock, as so determined, of all members of such bank at the end of such year, except that in the case of each State such number shall not be less than one and shall not be more than six. Notwithstanding any other provision of this section, (A) except as provided in clause (B) of this sentence, if at any time the number of member directorships so designated as representing the members located in any State would not be at least equal to the total number of elective directorships which, on December 31, 1960, were filled by officers or directors of members whose principal places of business were located in such State, the Director shall add to the board of directors of the bank of the district in which such State is located such number of member directorships, and shall so designate the directorship or directorships thus added, that the number of member directorships designated as representing the members located in such State will equal said total number, and (B) clause (A) of this sentence shall not apply to the directorships of any Federal Home Loan Bank resulting from the merger of any 2 or more such Banks. Any member directorship so added shall exist only until the expiration of its first term. The Director shall, with respect to each member of a Federal home loan bank, designate the State in the district of such bank in which such member shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be located, and may from time to time change any such designation, but if the principal place of business of any such member is located in a State of such district it shall be the duty of the Director to designate such State as the State in which such member shall, for said purposes, be deemed to be located. As used in the second sentence of this subsection, the term "total number of elective directorships" means the total number of elective directorships on the board of directors of the bank of the district in which such State was located on December 31, 1960, and the term "members" where used for the second time in such sentence means members of such bank.

(d) Terms; rules and regulations governing nominations and elections

The term of each director shall be 4 years. The board of directors of each Federal home loan bank and the Director shall adjust the terms of members first elected after July 30, 2008, to ensure that the terms of the members of the board of directors are staggered with approximately $\frac{1}{4}$ of the terms expiring each year. If any person, before or after, or partly before and partly after, September 8, 1961, has been elected to each of three consecutive full terms as a director of a Federal home loan bank and has served for all or part of each of said terms, such person shall not be eligible for election to a directorship of such bank for a term which begins earlier than two years after the expiration of the last expiring of said three terms. The Director is authorized to prescribe such rules and regulations as it may deem necessary or appropriate for the nomination and election of directors of Federal home loan banks, including, without limitation on the generality of the foregoing, rules and regulations with respect to the breaking of ties and with respect to the inclusion of more than one directorship on a single ballot and the methods of voting and of determining the results of voting in such cases.

(e) Continuation of existing terms; directorship for the Commonwealth of Puerto Rico

Each term, outstanding on the effective date of the amendment to this section abolishing the division of elective directors into classes, of an elective or appointive directorship then existing shall continue until its original date of expiration, and any elective or appointive directorship in existence on said date shall continue to exist to the same extent as if it had been established by or under this section on or after said date. The Director in its ¹ discretion may shorten the next succeeding term of any such elective directorship to one year, and may fill such term by appointment. The term "States" or "State" as used in this section shall mean the States of the Union, the District of Columbia, and the Commonwealth of Puerto Rico. The Director, by regulation or otherwise, may add an additional elective directorship to the board of directors of the bank of any district in which the Commonwealth of Puerto Rico is included at the time such directorship is added and which does not then include five or more States, may fix the commencement and the duration, which shall not exceed two years, of

the initial term of any directorship so added, and may fill any such initial term by appointment: *Provided*, That (1) any directorship added pursuant to the foregoing provisions of this sentence shall be designated by the Director, pursuant to subsection (b) of this section, as representing the members located in the Commonwealth of Puerto Rico, (2) such designation of such directorship shall not be changed, and (3) such directorship shall automatically cease to exist if and when the Commonwealth of Puerto Rico ceases to be included in such district.

(f) Vacancies

(1) In general

A Bank director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

(2) Election process

In the event of a vacancy in any Bank directorship, such vacancy shall be filled by an affirmative vote of a majority of the remaining Bank directors, regardless of whether such remaining Bank directors constitute a quorum of the Bank's board of directors. A Bank director so elected shall satisfy the requirements for eligibility which were applicable to his predecessor. If any Bank director shall cease to have any qualification set forth in this section, the office held by such person shall immediately become vacant, and such person shall not continue to act as a Bank director.

(g) Chairperson and Vice Chairperson

(1) Election

The Chairperson and Vice Chairperson of the board of directors of each Federal home loan bank shall be elected by a majority of all the directors of such bank from among the directors of the bank.

(2) Terms

The term of office of the Chairperson and the Vice Chairperson of the board of directors of a Federal home loan bank shall be 2 years.

(3) Acting Chairperson

In the event of a vacancy in the position of Chairperson of the board of directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as Chairperson.

(4) Procedures

The board of directors of each Federal home loan bank shall establish procedures, in the bylaws of such board, for designating an acting chairperson for any period during which the Chairperson and the Vice Chairperson are not available to carry out the requirements of that position for any reason and removing any person from any such position for good cause.

(h) Appointment where members hold less than \$1,000,000 of capital stock

If at any time when nominations are required members shall hold less than \$1,000,000 of the capital stock of the Federal home loan bank, the Director shall appoint a director or directors to fill the place or places for which such nominations are required, and the Director may, prior to the filing of the certificate mentioned in section 1432 of this title, appoint directors who shall be respectively designated by it as appointive directors and as member directors, in accordance with the provisions of this section.

(i) Directors' compensation

(1) In general

Each bank may pay its directors reasonable compensation for the time required of them, and their necessary expenses, in the performance of their duties, in accordance with the resolutions adopted by such directors, subject to the approval of the board.

(2) Annual report