

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: “It is not the purpose of this chapter to discriminate in any manner against State nonmember banks and in favor of national or member banks; but the purpose is to provide all banks with the same opportunity to obtain and enjoy the benefits of this chapter. No bank shall be discriminated against because its capital stock is less than the amount required for eligibility for admission into the Federal Reserve System.”

§ 1831. Separability of certain provisions of this chapter

The provisions of this chapter limiting the insurance of the deposits of any depositor to a maximum less than the full amount shall be independent and separable from each and all of the provisions of this chapter.

(Sept. 21, 1950, ch. 967, §2[23], formerly §2[21], 64 Stat. 894; renumbered §2[22], Pub. L. 90-203, §3, Dec. 15, 1967, 81 Stat. 610; renumbered §2[23], Pub. L. 91-508, title I, §101, Oct. 26, 1970, 84 Stat. 1114.)

PRIOR PROVISIONS

Section is derived from subsec. (z) of former section 264 of this title. See Codification note set out under section 1811 of this title.

§ 1831a. Activities of insured State banks

(a) Permissible activities

(1) In general

After the end of the 1-year period beginning on December 19, 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

(A) the Corporation has determined that the activity would pose no significant risk to the Deposit Insurance Fund; and

(B) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

(2) Processing period

(A) In general

The Corporation shall make a determination under paragraph (1)(A) not later than 60 days after receipt of a completed application that may be required under this subsection.

(B) Extension of time period

The Corporation may extend the 60-day period referred to in subparagraph (A) for not more than 30 additional days, and shall notify the applicant of any such extension.

(b) Insurance underwriting

(1) In general

Notwithstanding subsection (a) of this section, an insured State bank may not engage in insurance underwriting except to the extent that activity is permissible for national banks.

(2) Exception for certain federally reinsured crop insurance

Notwithstanding any other provision of law, an insured State bank or any of its subsidi-

aries that provided insurance on or before September 30, 1991, which was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.

(c) Equity investments by insured State banks

(1) In general

An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

(2) Exception for certain subsidiaries

Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

(3) Exception for qualified housing projects

(A) Exception

Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

(B) Limitation

The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

(C) Qualified housing project defined

As used in this paragraph—

(i) Qualified housing project

The term “qualified housing project” means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

(ii) Lower income

The term “lower income” means income that is less than or equal to the median income based on statistics from State or Federal sources.

(4) Transition rule

(A) In general

The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on December 19, 1991.

(B) Treatment of noncompliance during divestment

With respect to any equity investment held by any insured State bank on December 19, 1991, which was lawfully acquired before December 19, 1991, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

(d) Subsidiaries of insured State banks**(1) In general**

After the end of the 1-year period beginning on December 19, 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

(A) the Corporation has determined that the activity poses no significant risk to the Deposit Insurance Fund; and

(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

(2) Insurance underwriting prohibited**(A) Prohibition**

Notwithstanding paragraph (1), no subsidiary of an insured State bank may engage in insurance underwriting except to the extent such activities are permissible for national banks.

(B) Continuation of existing activities

Notwithstanding subparagraph (A), a well-capitalized insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on November 21, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

(C) Exception

Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

(ii) control of the insured State bank has not changed since that date.

(3) Processing period**(A) In general**

The Corporation shall make a determination under paragraph (1)(A) not later than 60 days after receipt of a completed application that may be required under this subsection.

(B) Extension of time period

The Corporation may extend the 60-day period referred to in subparagraph (A) for not more than 30 additional days, and shall notify the applicant of any such extension.

(e) Savings bank life insurance**(1) In general**

No provision of this chapter shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life

insurance company, by any insured bank which—

(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

(B) meets applicable consumer disclosure requirements with respect to such insurance.

(2) FDIC finding and action regarding risk**(A) Finding**

Before the end of the 1-year period beginning on December 19, 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the Deposit Insurance Fund.

(B) Actions**(i) In general**

The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

(ii) Authorized actions

Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the Deposit Insurance Fund.

(f) Common and preferred stock investment**(1) In general**

An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank or is not otherwise permitted under this section.

(2) Exception for banks in certain States

Notwithstanding paragraph (1), an insured State bank may, to the extent permitted by the Corporation, acquire and retain ownership of securities described in paragraph (1) to the extent the aggregate amount of such investment does not exceed an amount equal to 100 percent of the bank's capital if such bank—

(A) is located in a State that permitted, as of September 30, 1991, investment in common or preferred stock listed on a national securities exchange or shares of an investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.]; and

(B) made or maintained an investment in such securities during the period beginning on September 30, 1990, and ending on November 26, 1991.

(3) Exception for certain types of institutions

Notwithstanding paragraph (1), an insured State bank may—

(A) acquire not more than 10 percent of a corporation that only—

(i) provides directors', trustees', and officers' liability insurance coverage or bankers' blanket bond group insurance cov-

erage for insured depository institutions; or

(ii) reinsures such policies; and

(B) acquire or retain shares of a depository institution if—

(i) the institution engages only in activities permissible for national banks;

(ii) the institution is subject to examination and regulation by a State bank supervisor;

(iii) 20 or more depository institutions own shares of the institution and none of those institutions owns more than 15 percent of the institution's shares; and

(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the institution's officers and employees) are owned only by the institution.

(4) Transition period for common and preferred stock investments

(A) In general

During each year in the 3-year period beginning on December 19, 1991, each insured State bank shall reduce by not less than 1/3 of its shares (as of December 19, 1991) the bank's ownership of securities in excess of the amount equal to 100 percent of the capital of such bank.

(B) Compliance at end of period

By the end of the 3-year period referred to in subparagraph (A), each insured State bank and each subsidiary of a State bank shall be in compliance with the maximum amount limitations on investments referred to in paragraph (1).

(5) Loss of exception upon acquisition

Any exception applicable under paragraph (2) with respect to any insured State bank shall cease to apply with respect to such bank upon any change in control of such bank or any conversion of the charter of such bank.

(6) Notice and approval

An insured State bank may only engage in any investment pursuant to paragraph (2) if—

(A) the bank has filed a 1-time notice of the bank's intention to acquire and retain investments described in paragraph (1); and

(B) the Corporation has determined, within 60 days of receiving such notice, that acquiring or retaining such investments does not pose a significant risk to the Deposit Insurance Fund.

(7) Divestiture

(A) In general

The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of the bank.

(B) Reasonable standard

The Corporation shall not require divestiture by any bank pursuant to subparagraph (A) without reason to believe that such in-

vestment will have an adverse effect on the safety and soundness of the bank.

(g) Determinations

The Corporation shall make determinations under this section by regulation or order.

(h) "Activity" defined

For purposes of this section, the term "activity" includes acquiring or retaining any investment.

(i) Other authority not affected

This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.

(j) Activities of branches of out-of-State banks

(1) Application of host State law

The laws of a host State, including laws 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 State bank to the same extent as such State laws apply to a branch in the host State of an out-of-State national bank. To the extent host State law is inapplicable to a branch of an out-of-State State bank in such host State pursuant to the preceding sentence, home State law shall apply to such branch.

(2) Activities of branches

An insured State bank that establishes a branch in a host State may conduct any activity at such branch that is permissible under the laws of the home State of such bank, to the extent such activity is permissible either for a bank chartered by the host State (subject to the restrictions in this section) or for a branch in the host State of an out-of-State national bank.

(3) Savings provision

No provision of this subsection shall be construed as affecting the applicability of—

(A) any State law of any home State under subsection (b), (c), or (d) of section 1831u of this title; or

(B) Federal law to State banks and State bank branches in the home State or the host State.

(4) Definitions

The terms "host State", "home State", and "out-of-State bank" have the same meanings as in section 1831u(f)¹ of this title.

(Sept. 21, 1950, ch. 967, §2[24], as added Pub. L. 102-242, title III, §303(a), Dec. 19, 1991, 105 Stat. 2349; amended Pub. L. 102-550, title XVI, §1605(a)(8), Oct. 28, 1992, 106 Stat. 4086; Pub. L. 103-328, title I, §102(b)(3)(B), Sept. 29, 1994, 108 Stat. 2351; Pub. L. 104-208, div. A, title II, §§2217, 2704(d)(14)(W), Sept. 30, 1996, 110 Stat. 3009-414, 3009-494; Pub. L. 105-24, §2(a), July 3, 1997, 111 Stat. 238; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §8(a)(31), Feb. 15, 2006, 119 Stat. 3615.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (f)(2)(A), is title I of act Aug. 22, 1940, ch. 686, 54

¹ See References in Text note below.

Stat. 789, as amended, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

Section 1831u of this title, referred to in subsec. (j)(4), was subsequently amended, and subsec. (f) of section 1831u no longer defines the terms “host State”, “home State”, and “out-of-State bank”. However, such terms are defined elsewhere in that section.

PRIOR PROVISIONS

A prior section 1831a, act Sept. 21, 1950, ch. 967, §2[24], as added Dec. 28, 1979, Pub. L. 96-161, title II, §202, 93 Stat. 1235, provided that if the applicable rate prescribed in subsec. (a) exceeded the rate a State bank would be permitted to charge in absence of that subsection, that State bank could for a business or agricultural loan of \$25,000 or more, notwithstanding State law, take or charge on any evidence of debt, interest of not more than 5 per centum in excess of the discount rate in effect at the Federal Reserve Bank in the district where the bank was located, that the taking or charging of interest at a greater rate than that prescribed by subsec. (a), if knowingly done, would be deemed a forfeit of the entire interest on that particular evidence of debt, and that if such greater rate of interest had already been paid, the payor could recover twice the amount of such payment in a civil action commenced within two years of such payment, prior to repeal by Pub. L. 96-221, title V, §529, Mar. 31, 1980, 94 Stat. 168, effective at close of Mar. 31, 1980.

Another prior section 1831a, act Sept. 21, 1950, ch. 967, §2[24], as added Nov. 5, 1979, Pub. L. 96-104, title I, §102, 93 Stat. 789, 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 any loan made in any State on or after Nov. 5, 1979, but prior to such repeal.

Another prior section 1831a, act Sept. 21, 1950, ch. 967, §2[24], as added Oct. 29, 1974, Pub. L. 93-501, title II, §202, 88 Stat. 1558, 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 loan made in any State during the period specified in section 206 of Pub. L. 93-501.

AMENDMENTS

2006—Subsecs. (a)(1)(A), (d)(1)(A). Pub. L. 109-173, §8(a)(31)(A), substituted “Deposit Insurance Fund” for “appropriate deposit insurance fund”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(14)(W). See 1996 Amendment note below.

Subsec. (e)(2)(A). Pub. L. 109-173, §8(a)(31)(B), substituted “risk to the Deposit Insurance Fund.” for “risk to the insurance fund of which such banks are members.”

Subsecs. (e)(2)(B)(ii), (f)(6)(B). Pub. L. 109-173, §8(a)(31)(C), substituted “the Deposit Insurance Fund” for “the insurance fund of which such bank is a member”.

1997—Subsec. (j). Pub. L. 105-24 amended subsec. (j) generally, substituting pars. (1) to (4) for former pars. (1) to (3) relating to general provisions, activities of branches, and definitions, respectively.

1996—Subsec. (a). Pub. L. 104-208, §2217(1), substituted “Permissible activities” for “In general” in heading, designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B) of par. (1), respectively, and realigned margins, and added par. (2).

Subsec. (a)(1)(A). Pub. L. 104-208, §2704(d)(14)(W), which directed substitution of “Deposit Insurance Fund” for “appropriate deposit insurance fund”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (d)(1)(A). Pub. L. 104-208, §2704(d)(14)(W), which directed substitution of “Deposit Insurance

Fund” for “appropriate deposit insurance fund”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (d)(3). Pub. L. 104-208, §2217(2), added par. (3).

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

1992—Subsec. (e)(1)(B). Pub. L. 102-550 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “meets the consumer disclosure requirements under section 1828(k) of this title with respect to such insurance.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 8(b) of Pub. L. 109-173, set out as a note under section 1813 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 section 2704(d)(14)(W) 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 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.

RIGHT OF STATE TO OPT OUT

Section 3 of Pub. L. 105-24 provided that: “Nothing in this Act [amending this section and section 36 of this title and enacting provisions set out as a note under section 1811 of this title] alters the right of States under section 525 of Public Law 96-221 [12 U.S.C. 1785 note].”

§ 1831b. Disclosures with respect to certain federally related mortgage loans

(a) Identity of beneficiary interest as condition for a loan; report to Corporation

No insured depository institution, insured branch of a foreign bank, or mutual savings or cooperative bank which is not an insured depository institution, shall make any federally related mortgage loan to any agent, trustee, nominee, or other person acting in a fiduciary capacity without the prior condition that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the insured depository institution, insured branch, or bank. At the request of the Corporation, the insured depository institution, insured branch, or bank shall report to the Corporation on the identity of such person and the nature and amount of the loan, discount, or other extension of credit.

(b) Enforcement; bank status

In addition to other available remedies, this section may be enforced with respect to mutual savings and cooperative banks which are not insured depository institutions in accordance with section 1818 of this title, and for such purpose such mutual savings and cooperative banks shall be held and considered to be State non-member insured banks and the appropriate Federal agency with respect to such mutual savings