

amended Pub. L. 102-242, title I, § 151(a)(3), Dec. 19, 1991, 105 Stat. 2284; Pub. L. 103-325, title VI, § 602(a)(56)–(58), Sept. 23, 1994, 108 Stat. 2290, 2291; Pub. L. 104-208, div. A, title II, § 2704(d)(14)(X), Sept. 30, 1996, 110 Stat. 3009-494; Pub. L. 109-171, title II, § 2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, § 8(a)(32), Feb. 15, 2006, 119 Stat. 3615; Pub. L. 111-203, title III, § 363(9), title IX, § 939(a)(2), (3), July 21, 2010, 124 Stat. 1555, 1885.)

AMENDMENT OF SUBSECTIONS (d) AND (e)

Pub. L. 111-203, title IX, § 939(a)(2), (3), (g), July 21, 2010, 124 Stat. 1885, 1887, provided that, effective 2 years after July 21, 2010, this section is amended:

(1) in subsection (d)—

(A) in the heading, by striking out “Not of Investment Grade”;

(B) in paragraph (1), by substituting “that does not meet standards of credit-worthiness as established by the Corporation” for “not of investment grade”;

(C) in paragraph (2), by striking out “not of investment grade”;

(D) by striking paragraph (3);

(E) by redesignating paragraph (4) as (3); and

(F) in paragraph (3), as so redesignated—

(i) by striking out subparagraph (A);

(ii) by redesignating subparagraphs (B) and (C) as (A) and (B), respectively; and

(iii) in subparagraph (B), as so redesignated, by substituting “that does not meet standards of credit-worthiness as established by the Corporation” for “not of investment grade”; and

(2) in subsection (e)—

(A) in the heading, by striking out “Not of Investment Grade”;

(B) in paragraph (1), by substituting “that does not meet standards of credit-worthiness as established by the Corporation” for “not of investment grade”; and

(C) in paragraphs (2) and (3), by substituting “that does not meet standards of credit-worthiness established by the Corporation” for “not of investment grade” wherever appearing.

See 2010 Amendment notes below.

AMENDMENTS

2010—Subsec. (e)(2)(A)(ii). Pub. L. 111-203, § 363(9)(A)(i)(I), substituted “Comptroller of the Currency or the Corporation, as appropriate” for “Director of the Office of Thrift Supervision”.

Subsec. (e)(2)(C). Pub. L. 111-203, § 363(9)(A)(i)(II), substituted “Comptroller of the Currency or the Corporation, as appropriate,” for “Director of the Office of Thrift Supervision”.

Subsec. (e)(2)(F). Pub. L. 111-203, § 363(9)(A)(i)(III), substituted “Comptroller of the Currency or the Corporation, as appropriate” for “Director of the Office of Thrift Supervision” in introductory provisions.

Subsec. (e)(3)(A). Pub. L. 111-203, § 363(9)(A)(ii)(I), substituted “Comptroller of the Currency or the Corporation, as appropriate” for “Director of the Office of Thrift Supervision”.

Subsec. (e)(3)(B). Pub. L. 111-203, § 363(9)(A)(ii)(II), substituted “Comptroller of the Currency or the Corporation, as appropriate,” for “Director of the Office of Thrift Supervision” in introductory provisions.

Subsec. (h)(2). Pub. L. 111-203, § 363(9)(B), substituted “Comptroller of the Currency, of the Corporation,” for “Director of the Office of Thrift Supervision”.

2006—Subsecs. (a)(1), (b)(1), (c)(2)(A). Pub. L. 109-173 substituted “Deposit Insurance Fund” for “affected deposit insurance fund”.

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

1996—Subsecs. (a)(1), (b)(1), (c)(2)(A). Pub. L. 104-208, § 2704(d)(14)(X), which directed substitution of “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—Subsec. (c)(2)(A)(i). Pub. L. 103-325, § 602(a)(56), substituted “; or” for “, or”.

Subsec. (d)(4)(C). Pub. L. 103-325, § 602(a)(57), substituted “subparagraph” for “subparagraphs”.

Subsec. (e)(4). Pub. L. 103-325, § 602(a)(58), substituted “and any other” for “any other”.

1991—Subsecs. (h), (i). Pub. L. 102-242 redesignated subsec. (i) as (h) and struck out former subsec. (h) which required that all savings associations with uninsured deposits disclose in clear and conspicuous statements that its deposits were not insured.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 363(9) 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 section 939(a)(2), (3) of Pub. L. 111-203 effective 2 years after July 21, 2010, see section 939(g) of Pub. L. 111-203, set out as a note under section 24a of this title.

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 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

Section 151(a)(3) of Pub. L. 102-242 provided that the amendment made by that section is effective 1 year after Dec. 19, 1991.

§ 1831f. Brokered deposits

(a) In general

An insured depository institution that is not well capitalized may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.

(b) Renewals and rollovers treated as acceptance of funds

Any renewal of an account in any troubled institution and any rollover of any amount on deposit in any such account shall be treated as an acceptance of funds by such troubled institution for purposes of subsection (a) of this section.

(c) Waiver authority

The Corporation may, on a case-by-case basis and upon application by an insured depository institution which is adequately capitalized (but not well capitalized), waive the applicability of subsection (a) of this section upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution.

(d) Limited exception for certain conservatorships

In the case of any insured depository institution for which the Corporation has been appointed as conservator, subsection (a) of this section shall not apply to the acceptance of deposits (described in such subsection) by such institution if the Corporation determines that the acceptance of such deposits—

- (1) is not an unsafe or unsound practice;
- (2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and
- (3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.

(e) Restriction on interest rate paid

Any insured depository institution which, under subsection (c) or (d) of this section, accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

- (1) the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or
- (2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution's normal market area.

(f) Additional restrictions

The Corporation may impose, by regulation or order, such additional restrictions on the acceptance of brokered deposits by any institution as the Corporation may determine to be appropriate.

(g) Definitions relating to deposit broker**(1) Deposit broker**

The term "deposit broker" means—

- (A) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and
- (B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

(2) Exclusions

The term "deposit broker" does not include—

- (A) an insured depository institution, with respect to funds placed with that depository institution;
- (B) an employee of an insured depository institution, with respect to funds placed with the employing depository institution;
- (C) a trust department of an insured depository institution, if the trust in question has

not been established for the primary purpose of placing funds with insured depository institutions;

(D) the trustee of a pension or other employee benefit plan, with respect to funds of the plan;

(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

(F) the trustee of a testamentary account;

(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 403(a) of title 26; or

(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

(3) Inclusion of depository institutions engaging in certain activities

Notwithstanding paragraph (2), the term "deposit broker" includes any insured depository institution that is not well capitalized (as defined in section 1831o of this title), and any employee of such institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area.

(4) Employee

For purposes of this subsection, the term "employee" means any employee—

- (A) who is employed exclusively by the insured depository institution;
- (B) whose compensation is primarily in the form of a salary;
- (C) who does not share such employee's compensation with a deposit broker; and
- (D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.

(h) Deposit solicitation restricted

An insured depository institution that is undercapitalized, as defined in section 1831o of this title, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

- (1) in such institution's normal market areas; or
- (2) in the market area in which such deposits would otherwise be accepted.

(Sept. 21, 1950, ch. 967, §2[29], as added Pub. L. 101-73, title II, §224(a), Aug. 9, 1989, 103 Stat. 273; amended Pub. L. 102-242, title III, §301(a), (c), Dec. 19, 1991, 105 Stat. 2343, 2345; Pub. L. 102-550, title XVI, §1605(a)(1), Oct. 28, 1992, 106 Stat. 4084; Pub. L. 103-325, title III, §337, Sept. 23, 1994, 108 Stat. 2235.)

AMENDMENTS

1994—Subsec. (g)(3). Pub. L. 103-325 inserted “that is not well capitalized (as defined in section 1831o of this title)” after “includes any insured depository institution”, substituted “of such institution” for “of any insured depository institution”, and struck out “(with respect to such deposits)” after “offering rates of interest” and “having the same type of charter” after “other insured depository institutions”.

1992—Subsec. (a). Pub. L. 102-550, §1605(a)(1)(A), substituted “An insured” for “A insured”.

Subsec. (c). Pub. L. 102-550, §1605(a)(1)(B), substituted “capitalized (but not well capitalized)” for “capitalized”.

1991—Subsec. (a). Pub. L. 102-242, §301(a)(1), substituted “insured depository institution that is not well capitalized” for “troubled institution”.

Subsec. (c). Pub. L. 102-242, §301(a)(2), substituted “insured depository institution which is adequately capitalized” for “insured depository institution”.

Subsec. (d). Pub. L. 102-242, §301(a)(3), added pars. (2) and (3) and closing provisions, struck out “and” at end of par. (1), and struck out former par. (2) which read as follows: “either—

“(A) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; or

“(B) is consistent with the conservator’s fiduciary duty to minimize the losses of the institution.”

Subsecs. (e) to (h). Pub. L. 102-242, §301(a)(4)–(6), (c), added subsec. (e), redesignated former subsec. (e) as (f) and struck out “troubled” before “institution as the”, redesignated former subsecs. (f) and (g) as (g) and (h), respectively, added subsec. (h), and struck out former subsec. (h), as previously redesignated, which defined “troubled institution”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE

Section 224(b) of Pub. L. 101-73 provided that: “The amendment made by subsection (a) [enacting this section] shall apply to deposits accepted after the end of the 120-day period beginning on the date of the enactment of this Act [Aug. 9, 1989].”

REGULATIONS

Section 301(d) of Pub. L. 102-242 provided that: “The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) [enacting section 1831f-1 of this title and amending this section] not later than 150 days after the date of enactment of this Act [Dec. 19, 1991], and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit.”

§ 1831f-1. Repealed. Pub. L. 106-569, title XII, § 1203, Dec. 27, 2000, 114 Stat. 3032

Section, act Sept. 21, 1950, ch. 967, §2[29A], as added Pub. L. 102-242, title III, §301(b), Dec. 19, 1991, 105 Stat. 2344, related to deposit broker notification and record-keeping.

§ 1831g. Contracts between depository institutions and persons providing goods, products, or services

(a) In general

An insured depository institution may not enter into a written or oral contract with any

person to provide goods, products, or services to or for the benefit of such depository institution if the performance of such contract would adversely affect the safety or soundness of the institution.

(b) Rulemaking

The Corporation shall prescribe such regulations and issue such orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of, and prevent evasions of, this section.

(c) Enforcement

Any action taken by any appropriate Federal banking agency under section 1818 of this title to enforce compliance on the part of any insured depository institution with the requirements of this section may include a requirement that such institution properly reflect the transaction on its books and records.

(d) No private right of action

This section may not be construed as creating any private right of action.

(e) Study

(1) In general

The Attorney General and the Comptroller General of the United States shall jointly conduct a study on the extent to which—

(A) insured depository institutions are entering into contracts with vendors under which the vendors agree to purchase stock or assets from insured depository institutions or to invest capital in or make deposits in such institutions; and

(B) if such practices occur, the extent to which such practices are having an anti-competitive effect and should be prohibited.

(2) Report to Congress

Before the end of the 1-year period beginning on August 9, 1989, the Attorney General and the Comptroller General shall submit a report to the Congress on the results of the study conducted pursuant to paragraph (1).

(Sept. 21, 1950, ch. 967, §2[30], as added Pub. L. 101-73, title II, §225, Aug. 9, 1989, 103 Stat. 275; amended Pub. L. 103-325, title VI, §602(a)(59), Sept. 23, 1994, 108 Stat. 2291.)

AMENDMENTS

1994—Subsec. (e)(1)(A). Pub. L. 103-325 substituted “the vendors” for “venders”.

§ 1831h. Repealed. Pub. L. 109-173, § 8(a)(33), Feb. 15, 2006, 119 Stat. 3615

Section, act Sept. 21, 1950, ch. 967, §2[31], as added Pub. L. 101-73, title II, §226, Aug. 9, 1989, 103 Stat. 276; amended Pub. L. 103-325, title VI, §602(a)(60), Sept. 23, 1994, 108 Stat. 2291; Pub. L. 104-208, div. A, title II, §2704(d)(14)(Y), Sept. 30, 1996, 110 Stat. 3009-494; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9, related to the Savings Association Insurance Fund Industry Advisory Committee.

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 31, 2006, see section 8(b) of Pub. L. 109-173, set out as an Effective Date of 2006 Amendment note under section 1813 of this title.