

§ 4602. Studies of effects of privatization of FNMA and FHLMC

(a) In general

The Comptroller General of the United States, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each conduct and submit 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 the expiration of the 2-year period beginning on October 28, 1992, a study regarding the desirability and feasibility of repealing the Federal charters of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, eliminating any Federal sponsorship of the enterprises, and allowing the enterprises to continue to operate as fully private entities.

(b) Requirements

Each study shall particularly examine the effects of such privatization on—

- (1) the requirements applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under Federal law and the costs to the enterprises;
- (2) the cost of capital to the enterprises;
- (3) housing affordability and availability and the cost of homeownership;
- (4) the level of secondary mortgage market competition subsequently available in the private sector;
- (5) whether increased amounts of capital would be necessary for the enterprises to continue operation;
- (6) the secondary market for residential loans and the liquidity of such loans; and
- (7) any other factors that the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, or the Director of the Congressional Budget Office deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the enterprises.

(c) Information

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall provide full and prompt access to the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office to any books, records, and other information requested for the purposes of conducting the studies under this section.

(d) Views of FNMA and FHLMC

(1) Consideration in studies

In conducting the studies under this section, the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) Direct report

The Federal National Mortgage Association and the Federal Home Loan Mortgage Cor-

poration may each report directly 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 on its own analysis of the desirability and feasibility of repealing the Federal charters of the enterprises, eliminating any Federal sponsorship, and allowing the enterprises to continue to operate as fully private entities.

(Pub. L. 102-550, title XIII, §1355, Oct. 28, 1992, 106 Stat. 3970.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. 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.

§ 4603. Transition

Before the expiration of the period ending 18 months after the appointment of the Director under section 4512 of this title, any rules and regulations promulgated before October 28, 1992, by the Secretary pursuant to the Federal National Mortgage Association Charter Act [12 U.S.C. 1716 et seq.] or the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1451 et seq.] shall remain in effect unless modified, terminated, superseded, or revoked by operation of law or in accordance with law. Such rules and regulations shall terminate, effective upon the expiration of such period.

(Pub. L. 102-550, title XIII, §1356, Oct. 28, 1992, 106 Stat. 3971.)

REFERENCES IN TEXT

The Federal National Mortgage Association Charter Act, referred to in text, is title III of act June 27, 1934, ch. 847, 48 Stat. 1252, as amended, which is classified generally to subchapter III (§1716 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1716 of this title and Tables.

The Federal Home Loan Mortgage Corporation Act, referred to in text, is title III of Pub. L. 91-351, July 24, 1970, 84 Stat. 451, as amended, which is classified generally to chapter 11A (§1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title and Statement of Purpose note set out under section 1451 of this title and Tables.

SUBCHAPTER II—REQUIRED CAPITAL LEVELS FOR REGULATED ENTITIES, SPECIAL ENFORCEMENT POWERS, AND REVIEWS OF ASSETS AND LIABILITIES

§ 4611. Risk-based capital levels for regulated entities

(a) In general

(1) Enterprises

The Director shall, by regulation, establish risk-based capital requirements for the enter-

prises to ensure that the enterprises operate in a safe and sound manner, maintaining sufficient capital and reserves to support the risks that arise in the operations and management of the enterprises.

(2) Federal Home Loan Banks

The Director shall establish risk-based capital standards under section 1426 of this title for the Federal Home Loan Banks.

(b) No limitation

Nothing in this section shall limit the authority of the Director to require other reports or undertakings, or take other action, in furtherance of the responsibilities of the Director under this Act.

(Pub. L. 102-550, title XIII, § 1361, Oct. 28, 1992, 106 Stat. 3972; Pub. L. 110-289, div. A, title I, § 1110(a), July 30, 2008, 122 Stat. 2675.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3672, known as the Housing and Community Development Act of 1992. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

AMENDMENTS

2008—Pub. L. 110-289 amended section generally. Prior to amendment, section related to risk-based capital levels for enterprises.

§ 4612. Minimum capital levels

(a) Enterprises

For purposes of this subchapter, the minimum capital level for each enterprise shall be the sum of—

- (1) 2.50 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;
- (2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and
- (3) 0.45 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

(b) Federal Home Loan Banks

For purposes of this subchapter, the minimum capital level for each Federal Home Loan Bank shall be the minimum capital required to be maintained to comply with the leverage requirement for the bank established under section 1426(a)(2) of this title.

(c) Establishment of revised minimum capital levels

Notwithstanding subsections (a) and (b) and notwithstanding the capital classifications of the regulated entities, the Director may, by reg-

ulations issued under section 4526 of this title, establish a minimum capital level for the enterprises, for the Federal Home Loan Banks, or for both the enterprises and the banks, that is higher than the level specified in subsection (a) for the enterprises or the level specified in subsection (b) for the Federal Home Loan Banks, to the extent needed to ensure that the regulated entities operate in a safe and sound manner.

(d) Authority to require temporary increase

(1) In general

Notwithstanding subsections (a) and (b) and any minimum capital level established pursuant to subsection (c), the Director may, by order, increase the minimum capital level for a regulated entity on a temporary basis, when the Director determines that such an increase is necessary and consistent with the prudential regulation and the safe and sound operations of a regulated entity.

(2) Rescission

The Director shall rescind any temporary minimum capital level established under paragraph (1) when the Director determines that the circumstances or facts no longer justify the temporary minimum capital level.

(3) Regulations required

The Director shall issue regulations establishing—

- (A) standards for the imposition of a temporary increase in minimum capital under paragraph (1);
- (B) the standards and procedures that the Director will use to make the determination referred to in paragraph (2); and
- (C) a reasonable time frame for periodic review of any temporary increase in minimum capital for the purpose of making the determination referred to in paragraph (2).

(e) Authority to establish additional capital and reserve requirements for particular purposes

The Director may, at any time by order or regulation, establish such capital or reserve requirements with respect to any product or activity of a regulated entity, as the Director considers appropriate to ensure that the regulated entity operates in a safe and sound manner, with sufficient capital and reserves to support the risks that arise in the operations and management of the regulated entity.

(f) Periodic review

The Director shall periodically review the amount of core capital maintained by the enterprises, the amount of capital retained by the Federal Home Loan Banks, and the minimum capital levels established for such regulated entities pursuant to this section.

(Pub. L. 102-550, title XIII, § 1362, Oct. 28, 1992, 106 Stat. 3975; Pub. L. 110-289, div. A, title I, § 1111, July 30, 2008, 122 Stat. 2676.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, § 1111(1), substituted “Enterprises” for “In general” in heading.

Subsecs. (b) to (f). Pub. L. 110-289, § 1111(2), added subsecs. (b) to (f) and struck out former subsec. (b) which related to minimum capital level during transition period.