

eral Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), and

(2) which—

(A) was held by the applicable financial institution on September 6, 2008, or

(B) was sold or exchanged by the applicable financial institution on or after January 1, 2008, and before September 7, 2008.

**(c) Applicable financial institution**

For purposes of this section:

**(1) In general**

Except as provided in paragraph (2), the term “applicable financial institution” means—

(A) a financial institution referred to in section 582(c)(2) of title 26, or

(B) a depository institution holding company (as defined in section 1813(w)(1) of this title).

**(2) Special rules for certain sales**

In the case of—

(A) a sale or exchange described in subsection (b)(2)(B), an entity shall be treated as an applicable financial institution only if it was an entity described in subparagraph (A) or (B) of paragraph (1) at the time of the sale or exchange, and

(B) a sale or exchange after September 6, 2008, of preferred stock described in subsection (b)(2)(A), an entity shall be treated as an applicable financial institution only if it was an entity described in subparagraph (A) or (B) of paragraph (1) at all times during the period beginning on September 6, 2008, and ending on the date of the sale or exchange of the preferred stock.

**(d) Special rule for certain property not held on September 6, 2008**

The Secretary of the Treasury or the Secretary’s delegate may extend the application of this section to all or a portion of the gain or loss from a sale or exchange in any case where—

(1) an applicable financial institution sells or exchanges applicable preferred stock after September 6, 2008, which the applicable financial institution did not hold on such date, but the basis of which in the hands of the applicable financial institution at the time of the sale or exchange is the same as the basis in the hands of the person which held such stock on such date, or

(2) the applicable financial institution is a partner in a partnership which—

(A) held such stock on September 6, 2008, and later sold or exchanged such stock, or

(B) sold or exchanged such stock during the period described in subsection (b)(2)(B).

**(e) Regulatory authority**

The Secretary of the Treasury or the Secretary’s delegate may prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of this section.

**(f) Effective date**

This section shall apply to sales or exchanges occurring after December 31, 2007, in taxable years ending after such date.

(Pub. L. 110–343, div. A, title III, §301, Oct. 3, 2008, 122 Stat. 3802.)

REFERENCES IN TEXT

The Federal National Mortgage Association Charter Act, referred to in subsec. (b)(1)(A), is title III of act June 27, 1934, ch. 847, 48 Stat. 1252, 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 subsec. (b)(1)(B), is title III of Pub. L. 91–351, July 24, 1970, 84 Stat. 451, 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.

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**§ 5301. Definitions**

As used in this Act, the following definitions shall apply, except as the context otherwise requires or as otherwise specifically provided in this Act:

**(1) Affiliate**

The term “affiliate” has the same meaning as in section 1813 of this title.

**(2) Appropriate Federal banking agency**

On and after the transfer date, the term “appropriate Federal banking agency” has the same meaning as in section 1813(q) of this title, as amended by title III.<sup>1</sup>

**(3) Board of Governors**

The term “Board of Governors” means the Board of Governors of the Federal Reserve System.

**(4) Bureau**

The term “Bureau” means the Bureau of Consumer Financial Protection established under title X.<sup>1</sup>

**(5) Commission**

The term “Commission” means the Securities and Exchange Commission, except in the context of the Commodity Futures Trading Commission.

**(6) Commodity futures terms**

The terms “futures commission merchant”, “swap”, “swap dealer”, “swap execution facility”, “derivatives clearing organization”, “board of trade”, “commodity trading advisor”, “commodity pool”, and “commodity pool operator” have the same meanings as given the terms in section 1a of the Commodity Exchange Act (7 U.S.C. 1 et seq.) [7 U.S.C. 1a].

**(7) Corporation**

The term “Corporation” means the Federal Deposit Insurance Corporation.

**(8) Council**

The term “Council” means the Financial Stability Oversight Council established under subchapter I.

**(9) Credit union**

The term “credit union” means a Federal credit union, State credit union, or State-chartered credit union, as those terms are defined in section 1752 of this title.

**(10) Federal banking agency**

The term—

(A) “Federal banking agency” means, individually, the Board of Governors, the Office of the Comptroller of the Currency, and the Corporation; and

(B) “Federal banking agencies” means all of the agencies referred to in subparagraph (A), collectively.

**(11) Functionally regulated subsidiary**

The term “functionally regulated subsidiary” has the same meaning as in section 1844(c)(5) of this title.

**(12) Primary financial regulatory agency**

The term “primary financial regulatory agency” means—

(A) the appropriate Federal banking agency, with respect to institutions described in section 1813(q) of this title, except to the extent that an institution is or the activities of an institution are otherwise described in subparagraph (B), (C), (D), or (E);

(B) the Securities and Exchange Commission, with respect to—

(i) any broker or dealer that is registered with the Commission under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], with respect to the activities of the broker or dealer that require the broker or dealer to be registered under that Act;

(ii) any investment company that is registered with the Commission under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], with respect to the activities of the investment company that require the investment company to be registered under that Act;

(iii) any investment adviser that is registered with the Commission under the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.], with respect to the investment advisory activities of such company and activities that are incidental to such advisory activities;

(iv) any clearing agency registered with the Commission under the Securities Exchange Act of 1934, with respect to the activities of the clearing agency that require the agency to be registered under such Act;

(v) any nationally recognized statistical rating organization registered with the Commission under the Securities Exchange Act of 1934;

(vi) any transfer agent registered with the Commission under the Securities Exchange Act of 1934;

(vii) any exchange registered as a national securities exchange with the Com-

<sup>1</sup> See References in Text note below.