

law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted.”

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NOT REPEALED, MODIFIED, OR AFFECTED

Nothing contained in section 205 of Pub. L. 89-695 amending subsec. Fourth of 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.

§ 1820. Administration of Corporation

(a) Board of Directors; use of mails; cooperation with other Federal agencies

The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination. The Board of Directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The Corporation shall be entitled to the free use of the United States mails in the same manner as the executive departments of the Government. The Corporation with the consent of any Federal Reserve bank or of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this chapter.

(b) Examinations

(1) Appointment of examiners and claims agents

The Board of Directors shall appoint examiners and claims agents.

(2) Regular examinations

Any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to examine—

- (A) any insured State nonmember bank or insured State branch of any foreign bank;
- (B) any depository institution which files an application with the Corporation to become an insured depository institution; and
- (C) any insured depository institution in default,

whenever the Board of Directors determines an examination of any such depository institution is necessary.

(3) Special examination of any insured depository institution

(A) In general

In addition to the examinations authorized under paragraph (2), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make any special examination of any insured depository institution or nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a) of the Financial Stability Act of 2010 [12 U.S.C. 5365(a)], whenever the Board of Directors determines that a special examination of any such depository institution is nec-

essary to determine the condition of such depository institution for insurance purposes, or of such nonbank financial company supervised by the Board of Governors or bank holding company described in section 165(a) of the Financial Stability Act of 2010 [12 U.S.C. 5365(a)], for the purpose of implementing its authority to provide for orderly liquidation of any such company under title II¹ of that Act, provided that such authority may not be used with respect to any such company that is in a generally sound condition.

(B) Limitation

Before conducting a special examination of a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a) of the Financial Stability Act of 2010 [12 U.S.C. 5365(a)], the Corporation shall review any available and acceptable resolution plan that the company has submitted in accordance with section 165(d) of that Act [12 U.S.C. 5365(d)], consistent with the non-binding effect of such plan, and available reports of examination, and shall coordinate to the maximum extent practicable with the Board of Governors, in order to minimize duplicative or conflicting examinations.

(4) Examination of affiliates

(A) In general

In making any examination under paragraph (2) or (3), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make such examinations of the affairs of any affiliate of any depository institution as may be necessary to disclose fully—

- (i) the relationship between such depository institution and any such affiliate; and
- (ii) the effect of such relationship on the depository institution.

(B) Commitment by foreign banks to allow examinations of affiliates

No branch or depository institution subsidiary of a foreign bank may become an insured depository institution unless such foreign bank submits a written binding commitment to the Board of Directors to permit any examination of any affiliate of such branch or depository institution subsidiary pursuant to subparagraph (A) to the extent determined by the Board of Directors to be necessary to carry out the purposes of this chapter.

(5) Examination of insured State branches

The Board of Directors shall—

(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 3105(c)(1) of this title; and

(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.

¹ See References in Text note below.

(6) Power and duty of examiners

Each examiner appointed under paragraph (1) shall—

(A) have power to make a thorough examination of any insured depository institution or affiliate under paragraph (2), (3), (4), or (5); and

(B) shall make a full and detailed report of condition of any insured depository institution or affiliate examined to the Corporation.

(7) Power of claim agents

Each claim agent appointed under paragraph (1) shall have power to investigate and examine all claims for insured deposits.

(c) Administration of oaths and affirmations; evidence; subpoena powers

In connection with examinations of insured depository institutions and any State non-member bank, savings association, or other institution making application to become insured depository institutions, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 1818(n) of this title.

(d) Annual on-site examinations of all insured depository institutions required**(1) In general**

The appropriate Federal banking agency shall, not less than once during each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

(2) Examinations by Corporation

Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted a full-scope, on-site examination of the insured depository institution.

(3) State examinations acceptable

The examinations required by paragraph (1) may be conducted in alternate 12-month periods, as appropriate, if the appropriate Federal banking agency determines that an examination of the insured depository institution conducted by the State during the intervening 12-month period carries out the purpose of this subsection.

(4) 18-month rule for certain small institutions

Paragraphs (1), (2), and (3) shall apply with "18-month" substituted for "12-month" if—

(A) the insured depository institution has total assets of less than \$500,000,000;

(B) the institution is well capitalized, as defined in section 1831o of this title;

(C) when the institution was most recently examined, it was found to be well managed, and its composite condition—

(i) was found to be outstanding; or

(ii) was found to be outstanding or good, in the case of an insured depository insti-

tution that has total assets of not more than \$100,000,000;

(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and

(E) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

(5) Certain Government-controlled institutions exempted

Paragraph (1) does not apply to—

(A) any institution for which the Corporation is conservator; or

(B) any bridge depository institution, none of the voting securities of which are owned by a person or agency other than the Corporation.

(6) Coordinated examinations

To minimize the disruptive effects of examinations on the operations of insured depository institutions—

(A) each appropriate Federal banking agency shall, to the extent practicable and consistent with principles of safety and soundness and the public interest—

(i) coordinate examinations to be conducted by that agency at an insured depository institution and its affiliates;

(ii) coordinate with the other appropriate Federal banking agencies in the conduct of such examinations;

(iii) work to coordinate with the appropriate State bank supervisor—

(I) the conduct of all examinations made pursuant to this subsection; and

(II) the number, types, and frequency of reports required to be submitted to such agencies and supervisors by insured depository institutions, and the type and amount of information required to be included in such reports; and

(iv) use copies of reports of examinations of insured depository institutions made by any other Federal banking agency or appropriate State bank supervisor to eliminate duplicative requests for information; and

(B) not later than 2 years after September 23, 1994, the Federal banking agencies shall jointly establish and implement a system for determining which one of the Federal banking agencies or State bank supervisors shall be the lead agency responsible for managing a unified examination of each insured depository institution and its affiliates, as required by this subsection.

(7) Separate examinations permitted

Notwithstanding paragraph (6), each appropriate Federal banking agency may conduct a separate examination in an emergency or under other exigent circumstances, or when the agency believes that a violation of law may have occurred.

(8) Report

At the time the system provided for in paragraph (6) is established, the Federal banking

agencies shall submit a joint report describing the system to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Thereafter, the Federal banking agencies shall annually submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives regarding the progress of the agencies in implementing the system and indicating areas in which enhancements to the system, including legislature improvements, would be appropriate.

(9) Standards for determining adequacy of State examinations

The Federal Financial Institutions Examination Council shall issue guidelines establishing standards to be used at the discretion of the appropriate Federal banking agency for purposes of making a determination under paragraph (3).

(10) Agencies authorized to increase maximum asset amount of institutions for certain purposes

At any time after the end of the 2-year period beginning on September 23, 1994, the appropriate Federal banking agency, in the agency's discretion, may increase the maximum amount limitation contained in paragraph (4)(C)(ii), by regulation, from \$100,000,000 to an amount not to exceed \$500,000,000 for purposes of such paragraph, if the agency determines that the greater amount would be consistent with the principles of safety and soundness for insured depository institutions.

(e) Examination fees

(1) Regular and special examinations of depository institutions

The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) or of any entity described in section 1813(q)(2) of this title may be assessed by the Corporation against the institution or entity to meet the expenses of the Corporation in carrying out such examinations.

(2) Examination of affiliates

The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) of this section may be assessed by the Corporation against each affiliate which is examined to meet the Corporation's expenses in carrying out such examination.

(3) Assessment against depository institution in case of affiliate's refusal to pay

(A) In general

Subject to subparagraph (B), if any affiliate of any insured depository institution—

- (i) refuses to pay any assessment under paragraph (2); or
- (ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

(B) Affiliate of more than 1 depository institution

If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

(4) Civil money penalty for affiliate's refusal to cooperate

(A) Penalty imposed

If any affiliate of any insured depository institution—

- (i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) of this section to conduct an examination; or
- (ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than \$5,000 for each day that any such refusal continues.

(B) Assessment and collection

Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 1818(i)(2) of this title.

(5) Deposits of examination assessment

Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 1823 of this title.

(f) Preservation of agency records

(1) In general

A Federal banking agency may cause any and all records, papers, or documents kept by the agency or in the possession or custody of the agency to be—

- (A) photographed or microphotographed or otherwise reproduced upon film; or
- (B) preserved in any electronic medium or format which is capable of—
 - (i) being read or scanned by computer; and
 - (ii) being reproduced from such electronic medium or format by printing any other form of reproduction of electronically stored data.

(2) Treatment as original records

Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

(3) Authority of the Federal banking agencies

Any photographs, microphotographs, or photographic film or copies thereof described in

paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be preserved in such manner as the Federal banking agency shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Federal banking agency may direct.

(g) Authority to prescribe regulations and definitions

Except to the extent that authority under this chapter is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may—

- (1) prescribe regulations to carry out this chapter; and
- (2) by regulation define terms as necessary to carry out this chapter.

(h) Coordination of examination authority

(1) State bank supervisors of home and host States

(A) Home State of bank

The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank.

(B) Host State branches

The State bank supervisor of the home State of an insured State bank and any State bank supervisor of an appropriate host State shall exercise its respective authority to supervise and examine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State.

(C) Supervisory fees

Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and any host State of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

(2) Host State examination

(A) In general

With respect to a branch operated in a host State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 1831u of this title, or that was established in such State pursuant to section 36(g) of this title, the third undesignated paragraph of section 321 of this title or section 1828(d)(4) of this title, the appropriate State bank supervisor of such host State may—

- (i) with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose of determining compliance with host State laws that are applicable pursuant to section 1831a(j) of this title, including those that govern community reinvestment, fair lending, and consumer protection; and

- (ii) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank's home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank's home State or the bank's appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank's home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner.

(B) Notice of determination

(i) In general

The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition.

(ii) Timing of notice

The State bank supervisor of the home State of an insured State bank shall provide notice under clause (i) as soon as is reasonably possible, but in all cases not later than 15 business days after the date on which the State bank supervisor has made such final determination or has received written notification of such final determination.

(3) Host State enforcement

If the State bank supervisor of a host State determines that a branch of an out-of-State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section 1831a(j) of this title, including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

(4) Cooperative agreement

(A) In general

The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

(B) Definition

For purposes of this subsection, the term "cooperative agreement" means a written agreement that is signed by the home State bank supervisor and the host State bank supervisor to facilitate State regulatory super-

vision of State banks, and includes nation-wide or multi-State cooperative agreements and cooperative agreements solely between the home State and host State.

(C) Rule of construction

Except for State bank supervisors, no provision of this subsection relating to such cooperative agreements shall be construed as limiting in any way the authority of home State and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 1831a(j) of this title.

(5) Federal regulatory authority

No provision of this subsection shall be construed as limiting in any way the authority of any Federal banking agency.

(6) State taxation authority not affected

No provision of this subsection shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

(7) Definitions

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

(A) Host State, home State, out-of-State bank

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

(B) State supervisory fees

The term “State supervisory fees” means assessments, examination fees, branch fees, license fees, and all other fees that are levied or charged by a State bank supervisor directly upon an insured State bank or upon branches of an insured State bank.

(C) Troubled condition

Solely for purposes of paragraph (2)(B), an insured State bank has been determined to be in “troubled condition” if the bank—

(i) has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Ratings System;

(ii) is subject to a proceeding initiated by the Corporation for termination or suspension of deposit insurance; or

(iii) is subject to a proceeding initiated by the State bank supervisor of the bank’s home State to vacate, revoke, or terminate the charter of the bank, or to liquidate the bank, or to appoint a receiver for the bank.

(D) Final determination

For purposes of paragraph (2)(B), the term “final determination” means the transmittal of a report of examination to the bank or

transmittal of official notice of proceedings to the bank.

(i) Flood insurance compliance by insured depository institutions

(1) Examinations

The appropriate Federal banking agency shall, during each scheduled on-site examination required by this section, determine whether the insured depository institution is complying with the requirements of the national flood insurance program.

(2) Report

(A) Requirement

Not later than 1 year after September 23, 1994, and biennially thereafter for the next 4 years, each appropriate Federal banking agency shall submit a report to the Congress on compliance by insured depository institutions with the requirements of the national flood insurance program.

(B) Contents

Each report submitted under this paragraph shall include a description of the methods used to determine compliance, the number of institutions examined during the reporting year, a listing and total number of institutions found not to be in compliance, actions taken to correct incidents of non-compliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.

(j) Consultation among examiners

(1) In general

Each appropriate Federal banking agency shall take such action as may be necessary to ensure that examiners employed by the agency—

(A) consult on examination activities with respect to any depository institution; and

(B) achieve an agreement and resolve any inconsistencies in the recommendations to be given to such institution as a consequence of any examinations.

(2) Examiner-in-charge

Each appropriate Federal banking agency shall consider appointing an examiner-in-charge with respect to a depository institution to ensure consultation on examination activities among all of the examiners of that agency involved in examinations of the institution.

(k) One-year restrictions on Federal examiners of financial institutions

(1) In general

In addition to other applicable restrictions set forth in title 18, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior ex-

aminer (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

(2) Definitions

For purposes of this subsection—

(A) the term “depository institution” includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

(B) the term “depository institution holding company” includes any foreign bank or company described in section 3106(a) of this title.

(3) Rules of construction

For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

(4) Regulations

(A) In general

Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

(B) Consultation required

The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

(5) Waiver

(A) Agency authority

A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special

Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

(B) Definition

For purposes of this paragraph, the head of an agency is—

(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System; and

(iii) the Chairperson of the Board of Directors, in the case of the Corporation.

(6) Penalties

(A) In general

In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall impose upon such person one or more of the following penalties:

(i) Industry-wide prohibition order

The Federal banking agency shall serve a written notice or order in accordance with and subject to the provisions of section 1818(e)(4) of this title for written notices or orders under paragraph (1) or (2) of section 1818(e) of this title, upon such person of the intention of the agency—

(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

(ii) Civil monetary penalty

The Federal banking agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than \$250,000. Any administrative proceeding under this clause shall be conducted in accordance with section 1818(i) of this title. In lieu of an action by the Federal banking agency under this clause, the Attorney General of the United States may bring a civil action

under this clause in the appropriate United States district court.

(B) Scope of prohibition order

Any person subject to an order issued under subparagraph (A)(i) shall be subject to paragraphs (6) and (7) of section 1818(e) of this title in the same manner and to the same extent as a person subject to an order issued under such section.

(C) Definitions

Solely for purposes of this paragraph, the “appropriate Federal banking agency” for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).

(Sept. 21, 1950, ch. 967, §2[10], 64 Stat. 882; Pub. L. 86-671, §4, July 14, 1960, 74 Stat. 551; Pub. L. 89-695, title II, §203, Oct. 16, 1966, 80 Stat. 1053; Pub. L. 91-452, title II, §208, Oct. 15, 1970, 84 Stat. 929; Pub. L. 95-369, §6(c)(16), Sept. 17, 1978, 92 Stat. 619; Pub. L. 95-630, title III, §305, Nov. 10, 1978, 92 Stat. 3677; Pub. L. 97-320, title I, §113(i), title IV, §410(g), Oct. 15, 1982, 96 Stat. 1474, 1520; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 101-73, title II, §§201(a), 210, Aug. 9, 1989, 103 Stat. 187, 217; Pub. L. 102-242, title I, §§111(a), 113(a), (b), (c)(2), title II, §203(c), title III, §302(d), Dec. 19, 1991, 105 Stat. 2240, 2246-2248, 2292, 2349; Pub. L. 102-550, title XVI, §§1603(b)(1), (4), 1604(a)(3), 1605(a)(4), Oct. 28, 1992, 106 Stat. 4078, 4079, 4082, 4085; Pub. L. 102-558, title III, §303(b)(5), 305, Oct. 28, 1992, 106 Stat. 4225, 4226; Pub. L. 103-325, title III, §§305(a), 306, 349(a), title V, §529(a), title VI, §602(a)(19), (20), Sept. 23, 1994, 108 Stat. 2216, 2217, 2242, 2266, 2289; Pub. L. 103-328, title I, §105, Sept. 29, 1994, 108 Stat. 2357; Pub. L. 104-208, div. A, title II, §§2221, 2244, Sept. 30, 1996, 110 Stat. 3009-414, 3009-419; Pub. L. 108-386, §8(a)(3), Oct. 30, 2004, 118 Stat. 2231; Pub. L. 108-458, title VI, §6303(b), Dec. 17, 2004, 118 Stat. 3751; Pub. L. 109-351, title VI, §605, title VII, §§711, 723(a), Oct. 13, 2006, 120 Stat. 1981, 1991, 2000; Pub. L. 109-473, §1, Jan. 11, 2007, 120 Stat. 3561; Pub. L. 110-289, div. A, title VI, §1604(b)(1)(B), July 30, 2008, 122 Stat. 2829; Pub. L. 111-203, title I, §172(a), title III, §§318(d), 363(4), July 21, 2010, 124 Stat. 1438, 1527, 1552.)

REFERENCES IN TEXT

Title II of that Act, referred to in subsec. (b)(3)(A), probably means title II of Pub. L. 111-203, known as the Dodd-Frank Wall Street Reform and Consumer Protection Act, which is classified principally to subchapter II (§5381 et seq.) of chapter 53 of this title. The Financial Stability Act of 2010, which is title I of Pub. L. 111-203, does not contain titles. For complete classification of title II to the Code, see Tables.

PRIOR PROVISIONS

Subsecs. (a), (b), [former] (e), and [former] (f) are derived from subsec. (k) of former section 264 of this title. See Codification note set out under section 1811 of this title.

AMENDMENTS

2010—Subsec. (b)(3). Pub. L. 111-203, §172(a)(2), which directed substitution of “or nonbank financial company supervised by the Board of Governors or a bank

holding company described in section 165(a) of the Financial Stability Act of 2010, whenever the Board of Directors determines that a special examination of any such depository institution is necessary to determine the condition of such depository institution for insurance purposes, or of such nonbank financial company supervised by the Board of Governors or bank holding company described in section 165(a) of the Financial Stability Act of 2010, for the purpose of implementing its authority to provide for orderly liquidation of any such company under title II of that Act, provided that such authority may not be used with respect to any such company that is in a generally sound condition.

“(B) LIMITATION.—Before conducting a special examination of a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a) of the Financial Stability Act of 2010, the Corporation shall review any available and acceptable resolution plan that the company has submitted in accordance with section 165(d) of that Act, consistent with the nonbinding effect of such plan, and available reports of examination, and shall coordinate to the maximum extent practicable with the Board of Governors, in order to minimize duplicative or conflicting examinations.” for “‘whenever the board of directors determines’ and all that follows through the period”, was executed by making the substitution for “‘whenever the Board of Directors determines’ and all that followed through the period, to reflect the probable intent of Congress.

Pub. L. 111-203, §172(a)(1), designated existing provisions as subpar. (A) and inserted heading.

Subsec. (d)(5). Pub. L. 111-203, §363(4)(A), struck out “or the Resolution Trust Corporation” after “the Corporation” in subpars. (A) and (B).

Subsec. (e)(1). Pub. L. 111-203, §318(d), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) of this section may be assessed by the Corporation against the institution to meet the Corporation’s expenses in carrying out such examinations.”

Subsec. (k)(5)(B)(ii) to (iv). Pub. L. 111-203, §363(4)(B), inserted “and” after the semicolon in cl. (ii), substituted a period at the end for “; and” in cl. (iii), and struck out cl. (iv) which read as follows: “the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.”

2008—Subsec. (d)(5)(B). Pub. L. 110-289 substituted “bridge depository institution” for “bridge bank”.

2007—Subsec. (d)(10). Pub. L. 109-473 substituted “\$500,000,000” for “\$250,000,000”.

2006—Subsec. (d)(4)(A). Pub. L. 109-351, §605, substituted “\$500,000,000” for “\$250,000,000”.

Subsec. (f). Pub. L. 109-351, §723(a), amended subsec. (f) generally. Prior to amendment, text read as follows: “The Corporation may cause any and all records, papers, or documents kept by it or in its possession or custody to be photographed or microphotographed or otherwise reproduced upon film, which photographic film shall comply with the minimum standards of quality approved for permanent photographic records by the National Institute of Standards and Technology. Such photographs, microphotographs, or photographic film or copies thereof shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded. Such photographs, microphotographs, or reproduction shall be preserved in such manner as the Board of Directors of the Corporation shall prescribe and the original records, papers, or documents may be destroyed or otherwise disposed of as the Board shall direct.”

Subsec. (h). Pub. L. 109-351, §711, amended subsec. (h) generally. Prior to amendment, subsec. (h) related to coordination of examination authority.

2004—Subsec. (b)(2)(A). Pub. L. 108-386 struck out “(except a District bank)” after “State nonmember bank”.

Subsec. (k). Pub. L. 108-458 added subsec. (k).
1996—Subsec. (d)(6)(B). Pub. L. 104-208, § 2244(b), which directed insertion of “or State bank supervisors” after “one of the Federal agencies”, was executed by making the insertion after “one of the Federal banking agencies” to reflect the probable intent of Congress.

Subsec. (d)(8). Pub. L. 104-208, § 2221(1), redesignated par. (8), relating to agencies authorized to increase maximum asset amount of institutions for certain purposes, as (10).

Subsec. (d)(10). Pub. L. 104-208, § 2221(2), substituted “\$250,000,000” for “\$175,000,000”.

Pub. L. 104-208, § 2221(1), redesignated par. (8), relating to agencies authorized to increase maximum asset amount of institutions for certain purposes, as (10).

Subsec. (j). Pub. L. 104-208, § 2244(a), added subsec. (j).
1994—Subsec. (b)(1). Pub. L. 103-325, § 602(a)(19), substituted “claims” for “claim”.

Subsec. (b)(2)(B). Pub. L. 103-325, § 602(a)(20), inserted “and” at end.

Subsec. (d)(4)(A). Pub. L. 103-325, § 306(a)(1), substituted “\$250,000,000” for “\$100,000,000”.

Subsec. (d)(4)(C). Pub. L. 103-325, § 306(a)(2), substituted “and its composite condition—

“(i) was found to be outstanding; or
“(ii) was found to be outstanding or good, in the case of an insured depository institution that has total assets of not more than \$100,000,000;” for “and its composite condition was found to be outstanding; and”.

Subsec. (d)(4)(D), (E). Pub. L. 103-325, § 306(a)(3), (4), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (d)(6), (7). Pub. L. 103-325, § 305(a), added pars. (6) and (7).

Subsec. (d)(8). Pub. L. 103-325, § 306(b), added par. (8) relating to agencies authorized to increase maximum asset amount of institutions for certain purposes.

Pub. L. 103-325, § 305(a), added par. (8) relating to report requirements.

Subsec. (d)(9). Pub. L. 103-325, § 349(a), added par. (9).
Subsec. (h). Pub. L. 103-328 added subsec. (h).

Subsec. (i). Pub. L. 103-325, § 529(a), added subsec. (i).
1992—Subsec. (b)(6)(A). Pub. L. 102-550, § 1604(a)(3), substituted “paragraph (2), (3), (4), or (5);” for “‘paragraph 2’ and all that follows through the semicolon” resulting in no change in text.

Subsec. (d)(5). Pub. L. 102-550, § 1603(b)(1)(A), (B), inserted “or the Resolution Trust Corporation” in subpars. (A) and (B) and inserted a comma after “bank” in subpar. (B).

Subsec. (d)(6). Pub. L. 102-550, § 1603(b)(1)(C), struck out par. (6) which read as follows: “(6) CONSUMER COMPLIANCE EXAMINATIONS EXCLUDED.—For purposes of this subsection, the term ‘full-scope, on-site examination’ does not include a consumer compliance examination, as defined in section 41(b).”

Subsec. (e). Pub. L. 102-550, § 1603(b)(4), amended directory language of Pub. L. 102-242, § 113(a)(2). See 1991 Amendment note below.

Subsec. (g). Pub. L. 102-558, § 303(b)(5), redesignated subsec. (f), relating to authority to prescribe regulations and definitions, as (g). Pub. L. 102-550, § 1605(a)(4), which contained an identical amendment, was repealed, effective Oct. 28, 1992, by Pub. L. 102-558, § 305, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

1991—Subsec. (b)(2)(B). Pub. L. 102-242, § 113(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “any savings association, State nonmember bank, or State branch of a foreign bank, or other depository institution which files an application with the Corporation to become an insured depository institution; and”.

Subsec. (b)(4)(A). Pub. L. 102-242, § 113(c)(2), struck out “insured” before “depository institution” in three places.

Subsec. (b)(5) to (7). Pub. L. 102-242, § 203(c), added par. (5), redesignated former par. (5) as (6) and substituted “(4), or (5)” for “or (4)”, and redesignated former par. (6) as (7).

Subsec. (d). Pub. L. 102-242, § 111(a), added subsec. (d).
Subsec. (e). Pub. L. 102-242, § 113(a)(2), as amended by Pub. L. 102-550, § 1603(b)(4), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 102-242, § 302(d), added subsec. (f) relating to authority to prescribe regulations and definitions.

Pub. L. 102-242, § 113(a)(1), redesignated subsec. (e), relating to preservation of records by photography, as (f).

1989—Subsec. (b). Pub. L. 101-73, § 210(a), amended subsec. (b) generally, revising and restating as pars. (1) to (6) provisions formerly contained in a single unnumbered paragraph.

Subsec. (c). Pub. L. 101-73, § 210(b)(1), substituted “and any State nonmember bank, savings association, or other institution” for “, State nonmember banks or other institutions”.

Pub. L. 101-73, § 201(a), substituted “insured depository institutions” for “insured banks” wherever appearing.

Subsec. (d). Pub. L. 101-73, § 210(b)(2), struck out subsec. (d) which defined “affiliate” and “member bank” for purposes of this section.

1988—Subsec. (e). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards”.

1982—Subsec. (b). Pub. L. 97-320, § 113(i), inserted “or any insured Federal savings bank,” after “foreign bank, or District bank.”.

Subsec. (d). Pub. L. 97-320, § 410(g), inserted “as in section 221a(b) of this title and”.

1978—Subsec. (b). Pub. L. 95-630, § 305(a), inserted “or other institution” after “any State nonmember bank” and struck out provisions that each claim agent have power to administer oaths and affirmations and to examine and to take and preserve testimony under oath as to any matter in respect to claims for insured deposits, and to issue subpoenas and subpoenas duces tecum, and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the main office of the bank or affiliate thereof is located, or in which the witness resides or carries on business and that such courts have jurisdiction and power to order and require compliance with any such subpoena.

Pub. L. 95-369 inserted “any insured State branch of a foreign bank, any State branch of a foreign bank making application to become an insured bank” after “(except a District bank)”, inserted “or branch” after “and any closed insured bank”, substituted “any national bank, insured Federal branch of a foreign bank, or District bank” for “any national bank or District bank” and inserted “and in the case of a foreign bank, a binding commitment by such bank to permit such examination to the extent determined by the Board of Directors to be necessary to carry out the purposes of this chapter shall be required as a condition to the insurance of any deposits” after “effect of such relations upon such banks”.

Subsec. (c). Pub. L. 95-630, § 305(b), among other changes, inserted references to State nonmember banks, other institutions making application to become insured banks, and investigations to determine compliance with applicable law and regulations and struck out provisions defining “affiliate” and “member bank”.

Subsec. (d). Pub. L. 95-630, § 305(b), substituted provisions defining the terms “affiliate” and “member bank” for provisions relating to the enforcement of subpoenas and orders.

1970—Subsec. (d). Pub. L. 91-452 struck out provisions which granted immunity from prosecution for any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1966—Subsec. (b). Pub. L. 89-695 empowered Corporation examiners making examinations of insured banks to 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 affili-

ates and the effect of such relations upon such banks, authorized Corporation claim agents to issue subpoenas and subpoenas duces tecum in connection with investigation and examination of claims for insured deposits and to apply to the proper United States district court for the enforcement of such subpoenas and provided such courts with jurisdiction and power to order and require compliance with any such subpoena.

Subsec. (c). Pub. L. 89-695 provided that in connection with examinations of insured banks and affiliates thereof, the appropriate Federal banking agency, or its designated representatives, could administer oaths and affirmations, take and preserve testimony under oath as to any matter in respect of the affairs or ownership of such bank or affiliate thereof, issue subpoenas and subpoenas duces tecum, and apply to the proper United States district court for the enforcement of such subpoenas, provided such courts with jurisdiction and power to order and require compliance with any such subpoena, and defined “affiliate” and “member bank”.

1960—Subsecs. (e) to (g). Pub. L. 86-671 struck out subsecs. (e) and (f) which related to reports of condition by insured nonmember State banks and access by Corporation to information of other bank supervisory authorities, and redesignated subsec. (g) as (e). See section 1817(a)(1) and (2) of this title.

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.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 172(a) 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.

Amendment by section 318(d) 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 363(4) 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.

EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by Pub. L. 108-458 effective at the end of the 12-month period beginning on Dec. 17, 2004, whether or not final regulations are issued as of Dec. 17, 2004, in accordance with the amendments made by section 6303 of Pub. L. 108-458, amending this section and section 1786 of this title, see section 6303(d) of Pub. L. 108-458, set out as a note under section 1786 of this title.

Amendment by Pub. L. 108-386 effective Oct. 30, 2004, and, except as otherwise provided, applicable with respect to fiscal year 2005 and each succeeding fiscal year, see sections 8(i) and 9 of Pub. L. 108-386, set out as notes under section 321 of this title.

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by section 303(b)(5) of Pub. L. 102-558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102-558, set out as a note under section 2062 of Title 50, Appendix, War and National Defense.

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, ex-

cept 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

Pub. L. 102-242, title I, §111(b), Dec. 19, 1991, 105 Stat. 2241, provided that: “The amendment made by subsection (a) [amending this section] shall become effective 1 year after the date of enactment of this Act [Dec. 19, 1991].”

Amendment by section 302(d) of Pub. L. 102-242 effective on earlier of 180 days after date on which final regulations promulgated in accordance with section 302(c) of Pub. L. 102-242, set out as a note under section 1817 of this title, become effective or Jan. 1, 1994, see section 302(g) of Pub. L. 102-242, set out as a note under section 1817 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective upon expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95-630, set out as an Effective Date note under section 375b of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91-609, title IX, §908, Dec. 31, 1970, 84 Stat. 1811, repealed Pub. L. 89-695, title IV, §401, Oct. 19, 1966, 80 Stat. 1056, which had provided that: “The provisions of titles I and II of this Act [amending sections 1464, 1730, 1813, 1817 to 1820 and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1730, and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted.”

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.

EFFECTIVE DATE OF INITIAL GUIDELINES

Pub. L. 103-325, title III, §349(b), Sept. 23, 1994, 108 Stat. 2242, provided that: “The initial guidelines required to be issued pursuant to the amendment made by subsection (a) [amending this section] shall become effective not later than 1 year after the date of enactment of this Act [Sept. 23, 1994].”

TRANSITION RULE

Pub. L. 102-242, title I, §111(c), Dec. 19, 1991, 105 Stat. 2241, provided that: “Notwithstanding section 10(d) of the Federal Deposit Insurance Act [12 U.S.C. 1820(d)] (as added by subsection (a)), during the period beginning on the date of enactment of this Act [Dec. 19, 1991] and ending on December 31, 1993, a full-scope, on-site examination of an insured depository institution is not required more often than once during every 18-month period, unless—

“(1) the institution, when most recently examined, was found to be in a less than satisfactory condition; or

“(2) 1 or more persons acquired control of the institution.”

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

Nothing contained in section 203 of Pub. L. 89-695 amending subsecs. (b) and (c) of 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.

§ 1820a. Examination of investment companies

(a) Exclusive Commission authority

Except as provided in subsection (c) of this section, a Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(b) Examination results and other information

The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) Certain examinations authorized

Nothing in this section shall prevent the Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 1820(b)(4) of this title, as may be necessary to disclose fully the relationship between the insured depository institution and the affiliate, and the effect of such relationship on the insured depository institution.

(d) Definitions

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

(1) Bank holding company

The term “bank holding company” has the meaning given the term in section 1841 of this title.

(2) Commission

The term “Commission” means the Securities and Exchange Commission.

(3) Corporation

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

(4) Federal banking agency

The term “Federal banking agency” has the meaning given the term in section 1813(z) of this title.

(5) Insured depository institution

The term “insured depository institution” has the meaning given the term in section 1813(c) of this title.

(6) Registered investment company

The term “registered investment company” means an investment company that is registered with the Commission under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.].

(7) Savings and loan holding company

The term “savings and loan holding company” has the meaning given the term in section 1467a(a)(1)(D) of this title.

(Pub. L. 106-102, title I, §115, Nov. 12, 1999, 113 Stat. 1371.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (d)(6), is title I of act Aug. 22, 1940, ch. 686, 54 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.

CODIFICATION

Section was enacted as part of the Gramm-Leach-Bliley Act, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

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.

§ 1821. Insurance Funds

(a) Deposit insurance

(1) Insured amounts payable

(A) In general

The Corporation shall insure the deposits of all insured depository institutions as provided in this chapter.

(B) Net amount of insured deposit

The net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount as determined in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3).

(C) Aggregation of deposits

For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in paragraph (1) or (2) of section 1817(i) of this title or any funds described in section 1817(i)(3) of this title.

(D) Coverage for certain employee benefit plan deposits

(i) Pass-through insurance

The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

(ii) Prohibition on acceptance of benefit plan deposits

An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

(iii) Definitions

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

(I) Capital standards

The terms “well capitalized” and “adequately capitalized” have the same meanings as in section 1831o of this title.