

also as part of the American Homeownership and Economic Opportunity Act of 2000, and not as part of title III of Pub. L. 103-325 which comprises this chapter.

Provisions similar to this section are contained in section 4805 of this title.

§ 4806. Regulatory appeals process, ombudsman, and alternative dispute resolution

(a) In general

Not later than 180 days after September 23, 1994, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the agency supervises.

(b) Review process

In establishing the independent appellate process under subsection (a) of this section, each agency shall ensure that—

(1) any appeal of a material supervisory determination by an insured depository institution or insured credit union is heard and decided expeditiously; and

(2) appropriate safeguards exist for protecting the appellant from retaliation by agency examiners.

(c) Comment period

Not later than 90 days after September 23, 1994, each appropriate Federal banking agency and the National Credit Union Administration Board shall provide public notice and opportunity for comment on proposed guidelines for the establishment of an appellate process under this section.

(d) Agency ombudsman

(1) Establishment required

Not later than 180 days after September 23, 1994, each Federal banking agency and the National Credit Union Administration Board shall appoint an ombudsman.

(2) Duties of ombudsman

The ombudsman appointed in accordance with paragraph (1) for any agency shall—

(A) act as a liaison between the agency and any affected person with respect to any problem such party may have in dealing with the agency resulting from the regulatory activities of the agency; and

(B) assure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

(e) Alternative dispute resolution pilot program

(1) In general

Not later than 18 months after September 23, 1994, each Federal banking agency and the National Credit Union Administration Board shall develop and implement a pilot program for using alternative means of dispute resolution of issues in controversy (hereafter in this section referred to as the “alternative dispute resolution program”) that is consistent with the requirements of subchapter IV of chapter 5 of title 5 if the parties to the dispute, including the agency, agree to such proceeding.

(2) Standards

An alternative dispute resolution pilot program developed under paragraph (1) shall—

(A) be fair to all interested parties to a dispute;

(B) resolve disputes expeditiously; and

(C) be less costly than traditional means of dispute resolution, including litigation.

(3) Independent evaluation

Not later than 18 months after the date on which a pilot program is implemented under paragraph (1), the Administrative Conference of the United States shall submit to the Congress a report containing—

(A) an evaluation of that pilot program;

(B) the extent to which the pilot programs meet the standards established under paragraph (2);

(C) the extent to which parties to disputes were offered alternative means of dispute resolution and the frequency with which the parties, including the agencies, accepted or declined to use such means; and

(D) any recommendations of the Conference to improve the alternative dispute resolution procedures of the Federal banking agencies and the National Credit Union Administration Board.

(4) Implementation of program

At any time after completion of the evaluation under paragraph (3)(A), any Federal banking agency and the National Credit Union Administration Board may implement an alternative dispute resolution program throughout the agency, taking into account the results of that evaluation.

(5) Coordination with existing agency ADR programs

(A) Evaluation required

If any Federal banking agency or the National Credit Union Administration maintains an alternative dispute resolution program as of September 23, 1994, under any other provision of law, the Administrative Conference of the United States shall include such program in the evaluation conducted under paragraph (3)(A).

(B) Multiple ADR programs

No provision of this section shall be construed as precluding any Federal banking agency or the National Credit Union Administration Board from establishing more than 1 alternative means of dispute resolution.

(f) Definitions

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

(1) Material supervisory determinations

The term “material supervisory determinations”—

(A) includes determinations relating to—

(i) examination ratings;

(ii) the adequacy of loan loss reserve provisions; and

(iii) loan classifications on loans that are significant to an institution; and

(B) does not include a determination by a Federal banking agency or the National

Credit Union Administration Board to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 1831*o* of this title or section 1790*a* of this title, as appropriate.

(2) Independent appellate process

The term “independent appellate process” means a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.

(3) Alternative means of dispute resolution

The term “alternative means of dispute resolution” has the meaning given to such term in section 571 of title 5.

(4) Issues in controversy

The term “issues in controversy” means—

(A) any final agency decision involving any claim against an insured depository institution or insured credit union for which the agency has been appointed conservator or receiver or for which a liquidating agent has been appointed, as the case may be;

(B) any final action taken by an agency in the agency’s capacity as conservator or receiver for an insured depository institution or by the liquidating agent appointed for an insured credit union; and

(C) any other issue for which the appropriate Federal banking agency or the National Credit Union Administration Board determines that alternative means of dispute resolution would be appropriate.

(g) Effect on other authority

Nothing in this section shall affect the authority of an appropriate Federal banking agency or the National Credit Union Administration Board to take enforcement or supervisory action.

(Pub. L. 103–325, title III, § 309, Sept. 23, 1994, 108 Stat. 2218.)

TERMINATION OF ADMINISTRATIVE CONFERENCE OF
UNITED STATES

For termination of Administrative Conference of United States, see provision of title IV of Pub. L. 104–52, set out as a note preceding section 591 of Title 5, Government Organization and Employees.

§ 4807. Time limit on agency consideration of completed applications

(a) In general

Each Federal banking agency shall take final action on any application to the agency before the end of the 1-year period beginning on the date on which a completed application is received by the agency.

(b) Waiver by applicant authorized

Any person submitting an application to a Federal banking agency may waive the applicability of subsection (a) of this section with respect to such application at any time.

(Pub. L. 103–325, title III, § 343, Sept. 23, 1994, 108 Stat. 2238.)

§ 4808. Revising regulatory requirements for transfers of all types of assets with recourse

(a) Review and revision of regulations

(1) In general

During the 180-day period beginning on September 23, 1994, each appropriate Federal banking agency shall, consistent with the principles of safety and soundness and the public interest—

(A) review the agency’s regulations and written policies relating to transfers of assets with recourse by insured depository institutions; and

(B) in consultation with the other Federal banking agencies, promulgate regulations that better reflect the exposure of an insured depository institution to credit risk from transfers of assets with recourse.

(2) Regulations required

Before the end of the 180-day period beginning on September 23, 1994, each appropriate Federal banking agency shall prescribe the regulations developed pursuant to paragraph (1)(B).

(b) Regulations required

(1) In general

After the end of the 180-day period beginning on September 23, 1994, the amount of risk-based capital required to be maintained, under regulations prescribed by the appropriate Federal banking agency, by any insured depository institution with respect to assets transferred with recourse by such institution may not exceed the maximum amount of recourse for which such institution is contractually liable under the recourse agreement.

(2) Exception for safety and soundness

The appropriate Federal banking agency may require any insured depository institution to maintain risk-based capital in an amount greater than the amount determined under paragraph (1), if the agency determines, by regulation or order, that such higher amount is necessary for safety and soundness reasons.

(c) Coordination with section 1835(b) of this title

This section shall not be construed as superseding the applicability of section 1835(b) of this title.

(d) Definitions

For purposes of this section, the terms “appropriate Federal banking agency”, “Federal banking agency”, and “insured depository institution” have the same meanings as in section 1813 of this title.

(Pub. L. 103–325, title III, § 350, Sept. 23, 1994, 108 Stat. 2242.)

§ 4809. “Plain language” requirement for Federal banking agency rules

(a) In general

Each Federal banking agency shall use plain language in all proposed and final rulemakings published by the agency in the Federal Register after January 1, 2000.