

such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities (1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and (2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 1813 of this title) occurring before Aug. 9, 1989, see section 305(c) of Pub. L. 101-73, set out as a note under section 1461 of this title.

Amendment by section 907(k) of Pub. L. 101-73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101-73, set out as a note under section 93 of this title.

SAVINGS PROVISION

Pub. L. 101-73, title III, §302, Aug. 9, 1989, 103 Stat. 343, as amended by Pub. L. 111-203, title III, §367(2), July 21, 2010, 124 Stat. 1556, provided that: "Notwithstanding the amendment made by this title to section 10 of the Home Owners' Loan Act [12 U.S.C. 1467a] and the repeal of section 416 of the National Housing Act [12 U.S.C. 1730i]—

"(1) any plan approved by the Federal Home Loan Bank Board under such section 10 for any Federal savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Comptroller of the Currency regular and complete reports on the association's progress in meeting the association's goals under the plan; and

"(2) any plan approved by the Federal Savings and Loan Insurance Corporation under such section 416 for any State savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Federal Deposit Insurance Corporation regular and complete reports on the association's progress in meeting the savings association's goals under the plan."

RULE OF CONSTRUCTION FOR CERTAIN APPLICATIONS

Pub. L. 106-102, title IV, §401(c), Nov. 12, 1999, 113 Stat. 1436, provided that:

"(1) IN GENERAL.—In the case of a company that—

"(A) submits an application with the Director of the Office of Thrift Supervision before the date of the enactment of this Act [Nov. 12, 1999] to convert a State-chartered trust company controlled by such company on May 4, 1999, to a savings association; and

"(B) controlled a subsidiary on May 4, 1999, that had submitted an application to the Director on September 2, 1998;

the company (including any subsidiary controlled by such company as of such date of enactment [Nov. 12, 1999]) shall be treated as having filed such conversion application with the Director before May 4, 1999, for purposes of section 10(c)(9)(C) of the Home Owners' Loan Act [12 U.S.C. 1467a(c)(9)(C)] (as added by subsection (a)).

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'company', 'control', 'savings association', and 'subsidiary' have the meanings given those terms in section 10 of the Home Owners' Loan Act."

ASSOCIATIONS THAT HAVE PREVIOUSLY FAILED TO REMAIN QUALIFIED THRIFT LENDERS

Pub. L. 101-73, title III, §303(c), Aug. 9, 1989, 103 Stat. 351, provided that: "If, as of June 30, 1991, any savings association is subject to any provision of section 10(m)(3) of the Home Owners' Loan Act [12 U.S.C. 1467a(m)(3)] as in effect on that date, the amendment to this subsection made by section 303 of the Financial Institutions Reform, Recovery, and Enforcement Act of

1989 [Pub. L. 101-73], shall not be construed as reducing the period specified in section 10(m)(3) of such Act."

CAPITAL RECOVERY; SUBMISSION OF PROPOSED REGULATIONS TO CONGRESS; EFFECTIVE DATE; STUDY, REPORT, AND CONGRESSIONAL REVIEW

Pub. L. 100-86, title IV, §404(c)-(e), Aug. 10, 1987, 101 Stat. 612, required the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to each submit a report to Congress containing the proposed regulations required to be prescribed under 12 U.S.C. 1467a and 1730i of this title not later than the end of the 90-day period beginning on Aug. 10, 1987; required the regulations to be implemented not later than the end of the 150-day period beginning on Aug. 10, 1987; and required, not later than Jan. 31, 1989, a detailed evaluation of, and report the effectiveness of, the regulations in achieving an increased level of capitalization for thrift institutions.

SUNSET AND SAVINGS PROVISION

Section ceases to be effective on date that notice of completion of all net new borrowing by Financing Corporation is published in Federal Register [Mar. 30, 1992, 57 F.R. 10763], with such termination not to be construed to affect or limit any authority of Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law, see section 416 of Pub. L. 100-86, set out as a note under section 1441 of this title.

§ 1467b. Intermediate holding companies

(a) Definition

For purposes of this section:

(1) Financial activities

The term "financial activities" means activities described in clauses (i) and (ii) of section 1467a(c)(9)(A) of this title.

(2) Grandfathered unitary savings and loan holding company

The term "grandfathered unitary savings and loan holding company" means a company described in section 1467a(c)(9)(C) of this title.

(3) Internal financial activities

The term "internal financial activities" includes—

(A) internal financial activities conducted by a grandfathered savings and loan holding company or any affiliate; and

(B) internal treasury, investment, and employee benefit functions.

(b) Requirement

(1) In general

(A) Activities other than financial activities

If a grandfathered unitary savings and loan holding company conducts activities other than financial activities, the Board may require such company to establish and conduct all or a portion of such financial activities in or through an intermediate holding company, which shall be a savings and loan holding company, established pursuant to regulations of the Board, not later than 90 days (or such longer period as the Board may deem appropriate) after the transfer date.¹

(B) Other activities

Notwithstanding subparagraph (A), the Board shall require a grandfathered unitary

¹ See References in Text note below.

savings and loan holding company to establish an intermediate holding company if the Board makes a determination that the establishment of such intermediate holding company is necessary—

(i) to appropriately supervise activities that are determined to be financial activities; or

(ii) to ensure that supervision by the Board does not extend to the activities of such company that are not financial activities.

(2) Internal financial activities

(A) Treatment of internal financial activities

For purposes of this subsection, the internal financial activities of a grandfathered unitary savings and loan holding company shall not be required to be placed in an intermediate holding company.

(B) Grandfathered activities

A grandfathered unitary savings and loan holding company may continue to engage in an internal financial activity, subject to review by the Board to determine whether engaging in such activity presents undue risk to the grandfathered unitary savings and loan holding company or to the financial stability of the United States, if—

(i) the grandfathered unitary savings and loan holding company engaged in the activity during the year before July 21, 2010; and

(ii) at least $\frac{2}{3}$ of the assets or $\frac{2}{3}$ of the revenues generated from the activity are from or attributable to the grandfathered unitary savings and loan holding company.

(3) Source of strength

A grandfathered unitary savings and loan holding company that directly or indirectly controls an intermediate holding company established under this section shall serve as a source of strength to its subsidiary intermediate holding company.

(4) Parent company reports

The Board, may from time to time, examine and require reports under oath from a grandfathered unitary savings and loan holding company that controls an intermediate holding company, and from the appropriate officers or directors of such company, solely for purposes of ensuring compliance with the provisions of this section, including assessing the ability of the company to serve as a source of strength to its subsidiary intermediate holding company as required under paragraph (3) and enforcing compliance with such requirement.

(5) Limited parent company enforcement

(A) In general

In addition to any other authority of the Board, the Board may enforce compliance with the provisions of this subsection that are applicable to any company described in paragraph (1)(A) that controls an intermediate holding company under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], and a company described in paragraph

(1)(A) shall be subject to such section (solely for purposes of this subparagraph) in the same manner and to the same extent as if the company described in paragraph (1)(A) were a savings and loan holding company.

(B) Application of other Act

Any violation of this subsection by a grandfathered unitary savings and loan holding company that controls an intermediate holding company may also be treated as a violation of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] for purposes of subparagraph (A).

(C) No effect on other authority

No provision of this paragraph shall be construed as limiting any authority of the Board or any other Federal agency under any other provision of law.

(c) Regulations

The Board—

(1) shall promulgate regulations to establish the criteria for determining whether to require a grandfathered unitary savings and loan holding company to establish an intermediate holding company under subsection (b); and

(2) may promulgate regulations to establish any restrictions or limitations on transactions between an intermediate holding company or a parent of such company and its affiliates, as necessary to prevent unsafe and unsound practices in connection with transactions between the intermediate holding company, or any subsidiary thereof, and its parent company or affiliates that are not subsidiaries of the intermediate holding company, except that such regulations shall not restrict or limit any transaction in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods, or services.

(d) Rules of construction

(1) Activities

Nothing in this section shall be construed to require a grandfathered unitary savings and loan holding company to conform its activities to permissible activities.

(2) Permissible corporate reorganization

The formation of an intermediate holding company as required in subsection (b) shall be presumed to be a permissible corporate reorganization as described in section 1467a(c)(9)(D) of this title.

(June 13, 1933, ch. 64, §10A, as added Pub. L. 111-203, title VI, §626, July 21, 2010, 124 Stat. 1638.)

REFERENCES IN TEXT

The transfer date, referred to in subsec. (b)(1)(A), probably means the transfer date defined in section 5301 of this title.

The Federal Deposit Insurance Act, referred to in subsec. (b)(5)(B), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

§ 1468. Transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders

(a) Affiliate transactions

(1) In general

Sections 23A and 23B of the Federal Reserve Act [12 U.S.C. 371c and 371c-1] shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act [12 U.S.C. 221 et seq.]), except that—

(A) no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 1467a(c)(2)(F)(i) of this title; and

(B) no savings association may enter into any transaction described in section 23A(b)(7)(B) of the Federal Reserve Act with any affiliate other than with respect to shares of a subsidiary.

(2) Sister bank exemption made available to savings associations

(A) Savings associations controlled by bank holding companies

Every savings association more than 80 percent of the voting stock of which is owned by a company described in section 1467a(c)(8) of this title shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act, if every savings association and bank controlled by such company complies with all applicable capital requirements on a fully phased-in basis and without reliance on goodwill.

(B) Savings associations generally

Effective on and after January 1, 1995, every savings association shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

(3) Affiliates described

Any company that would be an affiliate (as defined in sections 23A and 23B of the Federal Reserve Act) of any savings association if such savings association were a member bank (as such term is defined in such Act) shall be deemed to be an affiliate of such savings association for purposes of paragraph (1).

(4) Additional restrictions authorized

The appropriate Federal banking agency may impose such additional restrictions on any transaction between any savings association and any affiliate of such savings association as the appropriate Federal banking agency determines to be necessary to protect the safety and soundness of the savings association.

(b) Extensions of credit to executive officers, directors, and principal shareholders

(1) In general

Subsections (g) and (h) of section 22 of the Federal Reserve Act [12 U.S.C. 375a, 375b] shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act).

(2) Additional restrictions authorized

The appropriate Federal banking agency may impose such additional restrictions on loans or extensions of credit to any appropriate Federal banking agency or executive officer of any savings association, or any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a savings association, as the appropriate Federal banking agency determines to be necessary to protect the safety and soundness of the savings association.

(c) Administrative enforcement

The appropriate Federal banking agency may take enforcement action with respect to violations of this section pursuant to section 8 or 18(j) of the Federal Deposit Insurance Act [12 U.S.C. 1818 or 1828(j)], as appropriate.

(d) Exemptions

(1) Federal savings associations

The Comptroller of the Currency may, by order, exempt a transaction of a Federal savings association from the requirements of this section if—

(A) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and

(B) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subparagraph (A), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

(2) State savings association

The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State savings association from the requirements of this section if the Board and the Federal Deposit Insurance Corporation jointly find that—

(A) the exemption is in the public interest and consistent with the purposes of this section; and

(B) the exemption does not present an unacceptable risk to the Deposit Insurance Fund.

(June 13, 1933, ch. 64, §11, formerly §9, 48 Stat. 135; Apr. 27, 1934, ch. 168, §15, 48 Stat. 647; renumbered §11, Pub. L. 100-86, title IV, §402(a), Aug. 10, 1987, 101 Stat. 605; Pub. L. 101-73, title III, §301, Aug. 9, 1989, 103 Stat. 342; Pub. L. 102-242, title III, §306(i), Dec. 19, 1991, 105 Stat. 2359; Pub. L. 103-325, title III, §316, Sept. 23, 1994, 108 Stat. 2223; Pub. L. 111-203, title III, §369(9), title VI, §608(c), July 21, 2010, 124 Stat. 1565, 1610.)

REFERENCES IN TEXT

The Federal Reserve Act, referred to in subsecs. (a)(1), (3) and (b)(1), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, which is classified principally to chapter 3 (§221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.