

(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

(F) the trustee of a testamentary account;

(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 403(a) of title 26; or

(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

(3) Inclusion of depository institutions engaging in certain activities

Notwithstanding paragraph (2), the term “deposit broker” includes any insured depository institution that is not well capitalized (as defined in section 1831o of this title), and any employee of such institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution’s normal market area.

(4) Employee

For purposes of this subsection, the term “employee” means any employee—

(A) who is employed exclusively by the insured depository institution;

(B) whose compensation is primarily in the form of a salary;

(C) who does not share such employee’s compensation with a deposit broker; and

(D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.

(h) Deposit solicitation restricted

An insured depository institution that is undercapitalized, as defined in section 1831o of this title, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

(1) in such institution’s normal market areas; or

(2) in the market area in which such deposits would otherwise be accepted.

(Sept. 21, 1950, ch. 967, § 2[29], as added Pub. L. 101-73, title II, § 224(a), Aug. 9, 1989, 103 Stat. 273; amended Pub. L. 102-242, title III, § 301(a), (c), Dec. 19, 1991, 105 Stat. 2343, 2345; Pub. L. 102-550, title XVI, § 1605(a)(1), Oct. 28, 1992, 106 Stat. 4084; Pub. L. 103-325, title III, § 337, Sept. 23, 1994, 108 Stat. 2235.)

AMENDMENTS

1994—Subsec. (g)(3). Pub. L. 103-325 inserted “that is not well capitalized (as defined in section 1831o of this title)” after “includes any insured depository institution”, substituted “of such institution” for “of any in-

ured depository institution”, and struck out “(with respect to such deposits)” after “offering rates of interest” and “having the same type of charter” after “other insured depository institutions”.

1992—Subsec. (a). Pub. L. 102-550, § 1605(a)(1)(A), substituted “An insured” for “A insured”.

Subsec. (c). Pub. L. 102-550, § 1605(a)(1)(B), substituted “capitalized (but not well capitalized)” for “capitalized”.

1991—Subsec. (a). Pub. L. 102-242, § 301(a)(1), substituted “insured depository institution that is not well capitalized” for “troubled institution”.

Subsec. (c). Pub. L. 102-242, § 301(a)(2), substituted “insured depository institution which is adequately capitalized” for “insured depository institution”.

Subsec. (d). Pub. L. 102-242, § 301(a)(3), added pars. (2) and (3) and closing provisions, struck out “and” at end of par. (1), and struck out former par. (2) which read as follows: “either—

“(A) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; or

“(B) is consistent with the conservator’s fiduciary duty to minimize the losses of the institution.”

Subsecs. (e) to (h). Pub. L. 102-242, § 301(a)(4)–(6), (c), added subsec. (e), redesignated former subsec. (e) as (f) and struck out “troubled” before “institution as the”, redesignated former subsecs. (f) and (g) as (g) and (h), respectively, added subsec. (h), and struck out former subsec. (h), as previously redesignated, which defined “troubled institution”.

EFFECTIVE DATE OF 1992 AMENDMENT

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, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE

Pub. L. 101-73, title II, § 224(b), Aug. 9, 1989, 103 Stat. 275, provided that: “The amendment made by subsection (a) [enacting this section] shall apply to deposits accepted after the end of the 120-day period beginning on the date of the enactment of this Act [Aug. 9, 1989].”

REGULATIONS

Pub. L. 102-242, title III, § 301(d), Dec. 19, 1991, 105 Stat. 2345, provided that: “The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) [enacting section 1831f-1 of this title and amending this section] not later than 150 days after the date of enactment of this Act [Dec. 19, 1991], and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit.”

§ 1831f-1. Repealed. Pub. L. 106-569, title XII, § 1203, Dec. 27, 2000, 114 Stat. 3032

Section, act Sept. 21, 1950, ch. 967, § 2[29A], as added Pub. L. 102-242, title III, § 301(b), Dec. 19, 1991, 105 Stat. 2344, related to deposit broker notification and record-keeping.

§ 1831g. Contracts between depository institutions and persons providing goods, products, or services

(a) In general

An insured depository institution may not enter into a written or oral contract with any person to provide goods, products, or services to or for the benefit of such depository institution

if the performance of such contract would adversely affect the safety or soundness of the institution.

(b) Rulemaking

The Corporation shall prescribe such regulations and issue such orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of, and prevent evasions of, this section.

(c) Enforcement

Any action taken by any appropriate Federal banking agency under section 1818 of this title to enforce compliance on the part of any insured depository institution with the requirements of this section may include a requirement that such institution properly reflect the transaction on its books and records.

(d) No private right of action

This section may not be construed as creating any private right of action.

(e) Study

(1) In general

The Attorney General and the Comptroller General of the United States shall jointly conduct a study on the extent to which—

(A) insured depository institutions are entering into contracts with vendors under which the vendors agree to purchase stock or assets from insured depository institutions or to invest capital in or make deposits in such institutions; and

(B) if such practices occur, the extent to which such practices are having an anti-competitive effect and should be prohibited.

(2) Report to Congress

Before the end of the 1-year period beginning on August 9, 1989, the Attorney General and the Comptroller General shall submit a report to the Congress on the results of the study conducted pursuant to paragraph (1).

(Sept. 21, 1950, ch. 967, §2[30], as added Pub. L. 101-73, title II, §225, Aug. 9, 1989, 103 Stat. 275; amended Pub. L. 103-325, title VI, §602(a)(59), Sept. 23, 1994, 108 Stat. 2291.)

AMENDMENTS

1994—Subsec. (e)(1)(A). Pub. L. 103-325 substituted “the vendors” for “venders”.

§ 1831h. Repealed. Pub. L. 109-173, § 8(a)(33), Feb. 15, 2006, 119 Stat. 3615

Section, act Sept. 21, 1950, ch. 967, §2[31], as added Pub. L. 101-73, title II, §226, Aug. 9, 1989, 103 Stat. 276; amended Pub. L. 103-325, title VI, §602(a)(60), Sept. 23, 1994, 108 Stat. 2291; Pub. L. 104-208, div. A, title II, §2704(d)(14)(Y), Sept. 30, 1996, 110 Stat. 3009-494; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9, related to the Savings Association Insurance Fund Industry Advisory Committee.

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 31, 2006, see section 8(b) of Pub. L. 109-173, set out as an Effective Date of 2006 Amendment note under section 1813 of this title.

§ 1831i. Agency disapproval of directors and senior executive officers of insured depository institutions or depository institution holding companies

(a) Prior notice required

An insured depository institution or depository institution holding company shall notify the appropriate Federal banking agency of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution or holding company at least 30 days (or such other period, as determined by the appropriate Federal banking agency) before such addition or employment becomes effective, if—

(1) the insured depository institution or depository institution holding company is not in compliance with the minimum capital requirement applicable to such institution or is otherwise in a troubled condition, as determined by such agency on the basis of such institution's or holding company's most recent report of condition or report of examination or inspection; or

(2) the agency determines, in connection with the review by the agency of the plan required under section 1831o of this title or otherwise, that such prior notice is appropriate.

(b) Disapproval by agency

An insured depository institution or depository institution holding company may not add any individual to the board of directors or employ any individual as a senior executive officer if the appropriate Federal banking agency issues a notice of disapproval of such addition or employment before the end of the notice period, not to exceed 90 days, beginning on the date the agency receives notice of the proposed action pursuant to subsection (a) of this section.

(c) Exception in extraordinary circumstances

(1) In general

Each appropriate Federal banking agency may prescribe by regulation conditions under which the prior notice requirement of subsection (a) of this section may be waived in the event of extraordinary circumstances.

(2) No effect on disapproval authority of agency

Such waivers shall not affect the authority of each agency to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

(d) Additional information

Any notice submitted to an appropriate Federal banking agency with respect to an individual by any insured depository institution or depository institution holding company pursuant to subsection (a) of this section shall include—

(1) the information described in section 1817(j)(6)(A) of this title about the individual; and

(2) such other information as the agency may prescribe by regulation.

(e) Standard for disapproval

The appropriate Federal banking agency shall issue a notice of disapproval with respect to a