

that provide technical assistance regarding the affordable housing programs, and organizations that represent the interest of low- and moderate-income families); and

“(D) 2 persons who are members of the National Housing Advisory Board pursuant to section 21A(d)(2)(B)(ii) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(d)(2)(B)(ii)] (as in effect before the effective date of the repeal under subsection (c)(2) [90 days after Dec. 17, 1993]), who shall be appointed by such Board before such effective date.

“(3) TERMS.—Each member shall be appointed for a term of 4 years, except as provided in paragraphs (4) and (5).

“(4) TERMS OF INITIAL APPOINTEES.—

“(A) PERMANENT POSITIONS.—As designated by the Secretary of Housing and Urban Development at the time of appointment, of the members first appointed under paragraph (2)(D)—

“(i) 1 shall be appointed for a term of 1 year;

“(ii) 1 shall be appointed for a term of 2 years;

“(iii) 1 shall be appointed for a term of 3 years; and

“(iv) 1 shall be appointed for a term of 4 years.

“(B) INTERIM MEMBERS.—The members of the Advisory Board under paragraph (2)(E) shall be appointed for a single term of 4 years, which shall begin upon the earlier of (i) the expiration of the 90-day period beginning on the date of the enactment of this Act [Dec. 17, 1993], or (ii) the first meeting of the Advisory Board.

“(5) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

“(6) MEETINGS.—

“(A) TIMING.—The Advisory Board shall meet 2 times a year or at the request of the Board of Directors of the Federal Deposit Insurance Corporation. The first meeting of the Advisory Board shall take place not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Dec. 17, 1993].

“(B) ADVICE.—The Advisory Board shall submit information and advice resulting from each meeting, in such form as the Board considers appropriate, to the Thrift Depositor Protection Oversight Board and the Board of Directors of the Federal Deposit Insurance Corporation.

“(7) ANNUAL REPORTS.—For each year, the Advisory Board shall submit a report containing its findings and recommendations to the Committee on Banking, Housing, and Urban Affairs [sic] of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation. The first such report shall be made not later than the expiration of the 6-month period beginning on the date of the enactment of this Act [Dec. 17, 1993].

“(8) DEFINITION.—For purposes of this subsection, the term ‘affordable housing programs’ means the program under [former] section 21A(c) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(c)] and the program under section 40 of the Federal Deposit Insurance Act [12 U.S.C. 1831q].

“(9) SUNSET.—The Advisory Board established under this subsection shall terminate on September 30, 1998.”

[Pub. L. 105-216, §14(e), July 29, 1998, 112 Stat. 910, provided that the amendment made by section 14(e) to section 14(b)(2) of Pub. L. 103-204, set out above, is effective July 29, 1998.]

COORDINATION AND CONSULTATION BETWEEN FEDERAL DEPOSIT INSURANCE CORPORATION AND RESOLUTION TRUST CORPORATION UNDER AFFORDABLE HOUSING PROGRAMS

Pub. L. 102-242, title II, §241(b), Dec. 19, 1991, 105 Stat. 2331, as amended by Pub. L. 102-550, title XVI,

§1604(c)(1), Oct. 28, 1992, 106 Stat. 4083, provided that: “The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 40 of the Federal Deposit Insurance Act [12 U.S.C. 1831q] and [former] section 21A(c) of the Federal Home Loan Bank Act [12 U.S.C. 1441a(c)]. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.”

§ 1831r. Payments on foreign deposits prohibited

(a) In general

Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this chapter or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 1813(l) of this title but for subparagraphs (A) and (B) of section 1813(l)(5) of this title.

(b) Exception

Subsection (a) of this section shall not apply to any payment, assistance, guarantee, or transfer made or provided by the Corporation if the Board of Directors determines in writing that such action is not inconsistent with any requirement of section 1823(c) of this title.

(c) Discount window lending

No provision of this section shall be construed as prohibiting any Federal Reserve bank from making advances or otherwise extending credit pursuant to the Federal Reserve Act [12 U.S.C. 221 et seq.] to any insured depository institution to the extent that such advance or extension of credit is consistent with the conditions and limitations imposed under section 10B of such Act [12 U.S.C. 347b].

(Sept. 21, 1950, ch. 967, §2[41], as added Pub. L. 102-242, title III, §312, Dec. 19, 1991, 105 Stat. 2367.)

REFERENCES IN TEXT

The Federal Reserve Act, referred to in subsec. (c), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, 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.

§ 1831r-1. Notice of branch closure

(a) Notice to appropriate Federal banking agency

(1) In general

An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

(2) Contents of notice

A notice under paragraph (1) shall include—

- (A) a detailed statement of the reasons for the decision to close the branch; and
- (B) statistical or other information in support of such reasons.

(b) Notice to customers**(1) In general**

An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

(2) Contents of notice

Notice under paragraph (1) shall consist of—

- (A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and
- (B) inclusion of a notice in—
 - (i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or
 - (ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

(c) Adoption of policies

Each insured depository institution shall adopt policies for closings of branches of the institution.

(d) Branch closures in interstate banking or branching operations**(1) Notice requirements**

In the case of an interstate bank which proposes to close any branch in a low- or moderate-income area, the notice required under subsection (b)(2) of this section shall contain the mailing address of the appropriate Federal banking agency and a statement that comments on the proposed closing of such branch may be mailed to such agency.

(2) Action required by appropriate Federal banking agency

If, in the case of a branch referred to in paragraph (1)—

- (A) a person from the area in which such branch is located—
 - (i) submits a written request relating to the closing of such branch to the appropriate Federal banking agency; and
 - (ii) includes a statement of specific reasons for the request, including a discussion of the adverse effect of such closing on the availability of banking services in the area affected by the closing of the branch; and
- (B) the agency concludes that the request is not frivolous,

the agency shall consult with community leaders in the affected area and convene a meeting of representatives of the agency and other interested depository institution regulatory agencies with community leaders in the affected area and such other individuals, organizations, and depository institutions (as defined in section 461(b)(1)(A) of this title) as the

agency may determine, in the discretion of the agency, to be appropriate, to explore the feasibility of obtaining adequate alternative facilities and services for the affected area, including the establishment of a new branch by another depository institution, the chartering of a new depository institution, or the establishment of a community development credit union, following the closing of the branch.

(3) No effect on closing

No action by the appropriate Federal banking agency under paragraph (2) shall affect the authority of an interstate bank to close a branch (including the timing of such closing) if the requirements of subsections (a) and (b) of this section have been met by such bank with respect to the branch being closed.

(4) Definitions

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

(A) Interstate bank defined

The term “interstate bank” means a bank which maintains branches in more than 1 State.

(B) Low- or moderate-income area

The term “low- or moderate-income area” means a census tract for which the median family income is—

- (i) less than 80 percent of the median family income for the metropolitan statistical area (as designated by the Director of the Office of Management and Budget) in which the census tract is located; or
- (ii) in the case of a census tract which is not located in a metropolitan statistical area, less than 80 percent of the median family income for the State in which the census tract is located, as determined without taking into account family income in metropolitan statistical areas in such State.

(e) Scope of application

This section shall not apply with respect to—

- (1) an automated teller machine;
- (2) the relocation of a branch or consolidation of one or more branches into another branch, if the relocation or consolidation—
 - (A) occurs within the immediate neighborhood; and
 - (B) does not substantially affect the nature of the business or customers served; or
- (3) a branch that is closed in connection with—
 - (A) an emergency acquisition under—
 - (i) section 1821(n) of this title; or
 - (ii) subsection (f) or (k) of section 1823 of this title; or
 - (B) any assistance provided by the Corporation under section 1823(c) of this title.

(Sept. 21, 1950, ch. 967, §2[42], formerly §2[39], as added Pub. L. 102-242, title II, §228, Dec. 19, 1991, 105 Stat. 2308; renumbered §2[42], Pub. L. 102-550, title XVI, §1602(a), Oct. 28, 1992, 106 Stat. 4078; amended Pub. L. 103-328, title I, §106, Sept. 29, 1994, 108 Stat. 2357; Pub. L. 104-208, div. A, title II, §2213, Sept. 30, 1996, 110 Stat. 3009-411.)

CODIFICATION

Section was classified to section 1831p of this title prior to renumbering by Pub. L. 102-550.

AMENDMENTS

1996—Subsec. (e), Pub. L. 104-208 added subsec. (e).
1994—Subsec. (d), Pub. L. 103-328 added subsec. (d).

§ 1831s. Transferred

CODIFICATION

Section, act Sept. 21, 1950, ch. 967, §2[39], as added Dec. 19, 1991, Pub. L. 102-242, title I, §132(a), 105 Stat. 2267, as amended, which related to standards for safety and soundness, was transferred to section 1831p-1 of this title.

§ 1831t. Depository institutions lacking Federal deposit insurance**(a) Annual independent audit of private deposit insurers****(1) Audit required**

Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

(2) Providing copies of audit report**(A) Private deposit insurer**

The private deposit insurer shall provide a copy of the audit report—

- (i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and
- (ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

(B) Depository institution

Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

(3) Enforcement by appropriate State supervisor

Any appropriate State supervisor of a private deposit insurer, and any appropriate State supervisor of a depository institution which receives deposits that are insured by a private deposit insurer, may examine and enforce compliance with this subsection under the applicable regulatory authority of such supervisor.

(b) Disclosure required

Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

(1) Periodic statements; account records

Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or share certificate,¹ a notice that the institution

is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

(2) Advertising; premises**(A) In general**

Include clearly and conspicuously in all advertising, except as provided in subparagraph (B); and at each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main Internet page, a notice that the institution is not federally insured.

(B) Exceptions

The following need not include a notice that the institution is not federally insured:

- (i) Any sign, document, or other item that contains the name of the depository institution, its logo, or its contact information, but only if the sign, document, or item does not include any information about the institution's products or services or information otherwise promoting the institution.
- (ii) Small utilitarian items that do not mention deposit products or insurance if inclusion of the notice would be impractical.

(3) Acknowledgment of disclosure**(A) New depositors obtained other than through a conversion or merger**

With respect to any depositor who was not a depositor at the depository institution before October 13, 2006, and who is not a depositor as described in subparagraph (B), receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

- (i) the institution is not federally insured; and
- (ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

(B) New depositors obtained through a conversion or merger

With respect to a depositor at a federally insured depository institution that converts to, or merges into, a depository institution lacking federal insurance after October 13, 2006, receive any deposit for the account of such depositor only if—

- (i) the depositor has signed a written acknowledgement described in subparagraph (A); or
- (ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgment.

(C) Current depositors

Receive any deposit after October 13, 2006, for the account of any depositor who was a depositor on that date only if—

¹ So in original. The period probably should not appear.