

§ 3107. Representative offices**(a) Prior approval to establish representative offices****(1) In general**

No foreign bank may establish a representative office without the prior approval of the Board.

(2) Standards for approval

In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards contained in section 3105(d)(2) of this title and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this chapter.

(b) Termination of representative offices

The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the standards, procedures, and requirements applicable under section 3105(e) of this title with respect to branches and agencies.

(c) Examinations

The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank. The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board deems it necessary to determine and enforce compliance with this chapter, the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], or other applicable Federal banking law.

(d) Compliance with State law

This chapter does not authorize the establishment of a representative office in any State in contravention of State law.

(Pub. L. 95-369, §10, Sept. 17, 1978, 92 Stat. 624; Pub. L. 102-242, title II, §204, Dec. 19, 1991, 105 Stat. 2292; Pub. L. 102-550, title XVI, §1604(a)(4), Oct. 28, 1992, 106 Stat. 4082; Pub. L. 106-102, title I, §142(b), Nov. 12, 1999, 113 Stat. 1384.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a)(2), (c), and (d), see References in Text note set out under section 3101 of this title.

The Bank Holding Company Act of 1956, referred to in subsec. (c), is act May 9, 1956, ch. 240, 70 Stat. 133, as amended, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-102 inserted at end “The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board deems it necessary to determine and enforce compliance with this chapter, the Bank Holding Company Act of 1956, or other applicable Federal banking law.”

1992—Subsec. (b). Pub. L. 102-550 substituted “section 3105(e) of this title” for “paragraphs (1), (2), and (3) of section 3105(d) of this title”.

1991—Pub. L. 102-242 amended section generally. Prior to amendment, section read as follows:

“(a) Any foreign bank that maintains an office other than a branch or agency in any State shall register

with the Secretary of the Treasury in accordance with rules prescribed by him, within one hundred and eighty days after September 17, 1978, or the date on which the office is established, whichever is later.

“(b) This chapter does not authorize the establishment of any such office in any State in contravention of State law.”

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-102 effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106-102, set out as a note under section 24 of this title.

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.

MORATORIUM ON EXAMINATION FEES UNDER THIS CHAPTER

Pub. L. 103-328, title I, §115(b), Sept. 29, 1994, 108 Stat. 2368, provided that: “The provision of section 10(c) of the International Banking Act of 1978 [12 U.S.C. 3107(c)] relating to the cost of examinations under such section shall not apply with respect to any examination under such section which begins before or during the 3-year period beginning on July 25, 1994.”

§ 3108. Regulation and enforcement**(a) Rules, regulations and orders**

The Comptroller, the Board, and the Federal Deposit Insurance Corporation, are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in order to perform their respective duties and functions under this chapter and to administer and carry out the provisions and purposes of this chapter and prevent evasions thereof.

(b) Enforcement**(1) In general**

In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this chapter or any amendment made by this chapter may be enforced under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] by any appropriate Federal banking agency as defined in that Act [12 U.S.C. 1811 et seq.].

(2) Authority to administer oaths; subpoena power

In the course of, or in connection with, an application, examination, investigation, or other proceeding under this chapter, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this chapter) may—

(A) administer oaths and affirmations and take or cause to be taken depositions; and

(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

(3) Administrative aspects of subpoenas**(A) Attendance and production at designated site**

The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1813(a)(3)]) or other place subject to the jurisdiction of the United States.

(B) Service of subpoena

Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

(C) Fees and travel expenses

Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(4) Contumacy or refusal**(A) In general**

In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

- (i) the United States District Court for the District of Columbia, or
- (ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

(B) Court order

Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

(5) Expenses and fees

Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

(6) Criminal penalty

Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.

(c) Powers of Federal Reserve Board and Federal Deposit Insurance Corporation

In the case of any provision of the Federal Reserve Act [12 U.S.C. 221 et seq.] to which a for-

eign bank or branch thereof is subject under this chapter, and which is made applicable to non-member insured banks by the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], whether by cross-reference to the Federal Reserve Act or by a provision in substantially the same terms in the Federal Deposit Insurance Act, the administration, interpretation, and enforcement of such provision, insofar as it relates to any foreign bank or branch thereof as to which the Board is an appropriate Federal banking agency, are vested in the Board, but where the making of any report to the Board or a Federal Reserve bank is required under any such provision, the Federal Deposit Insurance Corporation may require that a duplicate of any such report be sent directly to it. This subsection shall not be construed to impair any power of the Federal Deposit Insurance Corporation to make regular or special examinations or to require special reports.

(Pub. L. 95-369, §13, Sept. 17, 1978, 92 Stat. 624; Pub. L. 102-242, title II, §209, Dec. 19, 1991, 105 Stat. 2297.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in text, see References in Text note set out under section 3101 of this title.

The Federal Deposit Insurance Act, referred to in subsecs. (b)(1) and (c), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, 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.

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.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-242 inserted heading, designated existing provisions as par. (1) and inserted par. heading, and added pars. (2) to (6).

§ 3109. Cooperation with foreign supervisors**(a) Disclosure of supervisory information to foreign supervisors**

Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

(b) Requirement of confidentiality

Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.