

REFERENCES IN TEXT

Part C, referred to in text, was in the original “sub-title C”, meaning subtitle C (§§161–176) of title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1420, which is classified principally to this part. For complete classification of subtitle C to the Code, see Tables.

The effective date of this Act, referred to in text, is 1 day after July 21, 2010, except as otherwise specifically provided in Pub. L. 111–203, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

§ 5369. Avoiding duplication

The Board of Governors shall take any action that the Board of Governors deems appropriate to avoid imposing requirements under this part that are duplicative of requirements applicable to bank holding companies and nonbank financial companies under other provisions of law.

(Pub. L. 111–203, title I, §169, July 21, 2010, 124 Stat. 1434.)

REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle C (§§161–176) of title I of Pub. L. 111–203, July 21, 2010, 124 Stat. 1420, which is classified principally to this part. For complete classification of subtitle C to the Code, see Tables.

§ 5370. Safe harbor**(a) Regulations**

The Board of Governors shall promulgate regulations on behalf of, and in consultation with, the Council setting forth the criteria for exempting certain types or classes of U.S. nonbank financial companies or foreign nonbank financial companies from supervision by the Board of Governors.

(b) Considerations

In developing the criteria under subsection (a), the Board of Governors shall take into account the factors for consideration described in subsections (a) and (b) of section 5323 of this title in determining whether a U.S. nonbank financial company or foreign nonbank financial company shall be supervised by the Board of Governors.

(c) Rule of construction

Nothing in this section shall be construed to require supervision by the Board of Governors of a U.S. nonbank financial company or foreign nonbank financial company, if such company does not meet the criteria for exemption established under subsection (a).

(d) Revisions**(1) In general**

The Board of Governors shall, in consultation with the Council, review the regulations promulgated under subsection (a), not less frequently than every 5 years, and based upon the review, the Board of Governors may revise such regulations on behalf of, and in consultation with, the Council to update as necessary the criteria set forth in such regulations.

(2) Transition period

No revisions under paragraph (1) shall take effect before the end of the 2-year period after the date of publication of such revisions in final form.

(e) Report

The Chairman of the Board of Governors and the Chairperson of the Council shall submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 30 days after the date of the issuance in final form of regulations under subsection (a), or any subsequent revision to such regulations under subsection (d), as applicable. Such report shall include, at a minimum, the rationale for exemption and empirical evidence to support the criteria for exemption.

(Pub. L. 111–203, title I, §170, July 21, 2010, 124 Stat. 1435.)

§ 5371. Leverage and risk-based capital requirements**(a) Definitions**

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

(1) Generally applicable leverage capital requirements

The term “generally applicable leverage capital requirements” means—

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 1831o of this title, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) Generally applicable risk-based capital requirements

The term “generally applicable risk-based capital requirements” means—

(A) the risk-based capital requirements, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 1831o of this title, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(3) Definition of depository institution holding company

The term “depository institution holding company” means a bank holding company or a savings and loan holding company (as those terms are defined in section 1813 of this title) that is organized in the United States, including any bank or savings and loan holding company that is owned or controlled by a foreign organization, but does not include the foreign organization.