

recommendation to the agency administrator that the contract be terminated.

(ii) Action by agency administrator

Upon receipt of a recommendation under clause (i), the agency administrator may—

- (I) terminate the contract;
- (II) make a referral to the Office of Federal Contract Compliance Programs of the Department of Labor; or
- (III) take other appropriate action.

(d) Applicability

This section shall apply to all contracts of an agency for services of any kind, including the services of financial institutions, investment banking firms, mortgage banking firms, asset management firms, brokers, dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services. The contracts referred to in this subsection include all contracts for all business and activities of an agency, at all levels, including contracts for the issuance or guarantee of any debt, equity, or security, the sale of assets, the management of the assets of the agency, the making of equity investments by the agency, and the implementation by the agency of programs to address economic recovery.

(e) Reports

Each Office shall submit to Congress an annual report regarding the actions taken by the agency and the Office pursuant to this section, which shall include—

- (1) a statement of the total amounts paid by the agency to contractors since the previous report;
- (2) the percentage of the amounts described in paragraph (1) that were paid to contractors described in subsection (c)(1);
- (3) the successes achieved and challenges faced by the agency in operating minority and women outreach programs;
- (4) the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses; and
- (5) any other information, findings, conclusions, and recommendations for legislative or agency action, as the Director determines appropriate.

(f) Diversity in agency workforce

Each agency shall take affirmative steps to seek diversity in the workforce of the agency at all levels of the agency in a manner consistent with applicable law. Such steps shall include—

- (1) recruiting at historically black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority minority populations;
- (2) sponsoring and recruiting at job fairs in urban communities;
- (3) placing employment advertisements in newspapers and magazines oriented toward minorities and women;
- (4) partnering with organizations that are focused on developing opportunities for minorities and women to place talented young minorities and women in industry internships, summer employment, and full-time positions;

(5) where feasible, partnering with inner-city high schools, girls' high schools, and high schools with majority minority populations to establish or enhance financial literacy programs and provide mentoring; and

(6) any other mass media communications that the Office determines necessary.

(g) Definitions

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

(1) Agency

The term "agency" means—

- (A) the Departmental Offices of the Department of the Treasury;
- (B) the Corporation;
- (C) the Federal Housing Finance Agency;
- (D) each of the Federal reserve banks;
- (E) the Board;
- (F) the National Credit Union Administration;
- (G) the Office of the Comptroller of the Currency;
- (H) the Commission; and
- (I) the Bureau.

(2) Agency administrator

The term "agency administrator" means the head of an agency.

(3) Minority

The term "minority" has the same meaning as in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note).

(4) Minority-owned business

The term "minority-owned business" has the same meaning as in section 1441a(r)(4)(A) of this title, as in effect on the day before the transfer date.

(5) Office

The term "Office" means the Office of Minority and Women Inclusion established by an agency under subsection (a).

(6) Women-owned business

The term "women-owned business" has the meaning given the term "women's business" in section 1441a(r)(4)(B) of this title, as in effect on the day before the transfer date.

(Pub. L. 111-203, title III, § 342, July 21, 2010, 124 Stat. 1541.)

REFERENCES IN TEXT

Section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (g)(3), is section 1204(c) of Pub. L. 101-73, which is set out as a note under section 1811 of this title.

SUBCHAPTER IV—PAYMENT, CLEARING,
AND SETTLEMENT SUPERVISION

§ 5461. Findings and purposes

(a) Findings

Congress finds the following:

- (1) The proper functioning of the financial markets is dependent upon safe and efficient arrangements for the clearing and settlement of payment, securities, and other financial transactions.

(2) Financial market utilities that conduct or support multilateral payment, clearing, or settlement activities may reduce risks for their participants and the broader financial system, but such utilities may also concentrate and create new risks and thus must be well designed and operated in a safe and sound manner.

(3) Payment, clearing, and settlement activities conducted by financial institutions also present important risks to the participating financial institutions and to the financial system.

(4) Enhancements to the regulation and supervision of systemically important financial market utilities and the conduct of systemically important payment, clearing, and settlement activities by financial institutions are necessary—

- (A) to provide consistency;
- (B) to promote robust risk management and safety and soundness;
- (C) to reduce systemic risks; and
- (D) to support the stability of the broader financial system.

(b) Purpose

The purpose of this subchapter is to mitigate systemic risk in the financial system and promote financial stability by—

(1) authorizing the Board of Governors to promote uniform standards for the—

- (A) management of risks by systemically important financial market utilities; and
- (B) conduct of systemically important payment, clearing, and settlement activities by financial institutions;

(2) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important financial market utilities;

(3) strengthening the liquidity of systemically important financial market utilities; and

(4) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important payment, clearing, and settlement activities by financial institutions.

(Pub. L. 111-203, title VIII, § 802, July 21, 2010, 124 Stat. 1802.)

EFFECTIVE DATE

Pub. L. 111-203, title VIII, § 814, July 21, 2010, 124 Stat. 1822, provided that: “This title [enacting this subchapter] is effective as of the date of enactment of this Act [July 21, 2010].”

SHORT TITLE

This subchapter known as the “Payment, Clearing, and Settlement Supervision Act of 2010”, see Short Title note set out under section 5301 of this title.

§ 5462. Definitions

In this subchapter, the following definitions shall apply:

(1) Appropriate financial regulator

The term “appropriate financial regulator” means—

- (A) the primary financial regulatory agency, as defined in section 5301 of this title;

(B) the National Credit Union Administration, with respect to any insured credit union under the Federal Credit Union Act (12 U.S.C. 1751 et seq.); and

(C) the Board of Governors, with respect to organizations operating under section 25A of the Federal Reserve Act (12 U.S.C. 611), and any other financial institution engaged in a designated activity.

(2) Designated activity

The term “designated activity” means a payment, clearing, or settlement activity that the Council has designated as systemically important under section 5463 of this title.

(3) Designated clearing entity

The term “designated clearing entity” means a designated financial market utility that is a derivatives clearing organization registered under section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) or a clearing agency registered with the Securities and Exchange Commission under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1).

(4) Designated financial market utility

The term “designated financial market utility” means a financial market utility that the Council has designated as systemically important under section 5463 of this title.

(5) Financial institution

(A) In general

The term “financial institution” means—

- (i) a depository institution, as defined in section 1813 of this title;
- (ii) a branch or agency of a foreign bank, as defined in section 3101 of this title;
- (iii) an organization operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-604a and 611 through 631);
- (iv) a credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);¹
- (v) a broker or dealer, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);
- (vi) an investment company, as defined in section 80a-3 of title 15;
- (vii) an insurance company, as defined in section 80a-2 of title 15;
- (viii) an investment adviser, as defined in section 80b-2 of title 15;
- (ix) a futures commission merchant, commodity trading advisor, or commodity pool operator, as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); and
- (x) any company engaged in activities that are financial in nature or incidental to a financial activity, as described in section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(B) Exclusions

The term “financial institution” does not include designated contract markets, registered futures associations, swap data repositories, and swap execution facilities reg-

¹ See References in Text note below.