

withdrawn assets, and interest on that amount, imputed at the same rate as income would have accrued had the amount not been withdrawn.

(3) Conditions for terminating special authority

If the Fund determines that the inclusion in a participation agreement of the provisions authorized by this subsection is resulting in the enrollment of loans under the Program that are likely to have been made without assistance provided under this subchapter, the Fund may notify the participating State that henceforth, the Fund will only make reimbursements to the State under section 4747 of this title with respect to a loan if the participation agreement between the participating State and each participating financial institution has been amended to conform with this section, without exercise of the special authority granted by this subsection.

(Pub. L. 103-325, title II, §255, Sept. 23, 1994, 108 Stat. 2207.)

§ 4746. Reports

(a) Reserve funds report

On or before the last day of each calendar quarter, a participating State shall submit to the Fund a report of contributions to reserve funds made by the participating State during the previous calendar quarter. If the participating State has made contributions to one or more reserve funds during the previous quarter, the report shall—

(1) indicate the total amount of such contributions;

(2) indicate the amount of contributions which is subject to reimbursement, which shall be equal to the total amount of contributions, unless one of the limitations contained in section 4747 of this title is applicable;

(3) if one of the limitations in section 4747 of this title is applicable, provide documentation of the applicability of such limitation for each loan for which the limitation applies; and

(4) include a certification by the participating State that—

(A) the information provided in accordance with paragraphs (1), (2), and (3) is accurate;

(B) funds in an amount meeting the minimum requirements of section 4743(b)(3) of this title continue to be available and legally committed to contributions by the State to reserve funds, less any amount that has been contributed by the State to reserve funds subsequent to the State being approved for participation in the Program;

(C) there has been no unapproved amendment to any participation agreement or the form of participation agreements; and

(D) the participating State is otherwise implementing the Program in accordance with this subchapter and regulations issued pursuant to section 4749 of this title.

(b) Annual data

Not later than March 31 of each year, each participating State shall submit to the Fund annual data indicating the number of borrowers financed under the Program, the total amount of

covered loans, and breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers financed.

(c) Form

The reports and data filed pursuant to subsections (a) and (b) of this section shall be in such form as the Fund may require.

(Pub. L. 103-325, title II, §256, Sept. 23, 1994, 108 Stat. 2212.)

§ 4747. Reimbursement by Fund

(a) Reimbursements

Not later than 30 calendar days after receiving a report filed in compliance with section 4746 of this title, the Fund shall reimburse the participating State in an amount equal to 50 percent of the amount of contributions by the participating State to the reserve funds that are subject to reimbursement by the Fund pursuant to section 4746 of this title and this section. The Fund shall reimburse participating States, as it receives reports pursuant to section 4746(a) of this title, until available funds are expended.

(b) Size of assisted borrower

The Fund shall not provide any reimbursement to a participating State with respect to an enrolled loan made to a borrower that has 500 or more employees at the time that the loan is enrolled in the Program.

(c) Three-year maximum

The amount of reimbursement to be provided by the Fund to a participating State over any 3-year period in connection with loans made to any single borrower or any group of borrowers among which a common enterprise exists shall not exceed \$75,000. For purposes of this subsection, "common enterprise" shall have the same meaning as in part 32 of title 12 of the Code of Federal Regulations, or any successor to that part.

(d) Loans totaling less than \$2,000,000

In connection with a loan in which the covered amount of the loan plus the covered amount of all previous loans enrolled by a participating financial institution does not exceed \$2,000,000, the amount of reimbursement by the Fund to the participating State shall not exceed the lesser of—

(1) 75 percent of the sum of the premium charges paid to the reserve fund by the borrower and the participating financial institution; or

(2) 5.25 percent of the covered amount of the loan.

(e) Loans totaling more than \$2,000,000

In connection with a loan in which the sum of the covered amounts of all previous loans enrolled by the participating financial institution in the Program equals or exceeds \$2,000,000, the amount of reimbursement to be provided by the Fund to the participating State shall not exceed the lesser of—

(1) 50 percent of the sum of the premium charges paid by the borrower and the participating financial institution; or

(2) 3.5 percent of the covered amount of the loan.

(f) Other amounts

In connection with the enrollment of a loan that will cause the aggregate covered amount of all enrolled loans to exceed \$2,000,000, the amount of reimbursement by the Fund to the participating State shall be determined—

- (1) by applying subsection (d) of this section to the portion of the loan, which when added to the aggregate covered amount of all previously enrolled loans equals \$2,000,000; and
- (2) by applying subsection (e) of this section to the balance of the loan.

(Pub. L. 103-325, title II, §257, Sept. 23, 1994, 108 Stat. 2212.)

§ 4748. Reimbursement to Fund

(a) In general

If a participating State withdraws funds from a reserve fund pursuant to terms of the participation agreement permitted by subsection (d) or (r) of section 4745 of this title, such participating State shall, not later than 15 calendar days after such withdrawal, submit to the Fund an amount computed by multiplying the amount withdrawn by the appropriate factor, as determined under subsection (b) of this section.

(b) Factor

The appropriate factor shall be obtained by dividing the total amount of contributions that have been made by the participating State to all reserve funds which were subject to reimbursement—

- (1) by 2; and
- (2) by the total amount of contributions made by the participating State to all reserve funds, including if applicable, contributions that have been made by the State prior to becoming a participating State if the State continued its own capital access program in accordance with section 4743(b) of this title.

(c) Use of reimbursements

The Fund may use funds reimbursed pursuant to this section to make reimbursements under section 4747 of this title.

(Pub. L. 103-325, title II, §258, Sept. 23, 1994, 108 Stat. 2213.)

§ 4749. Regulations

The Fund shall promulgate appropriate regulations to implement this subchapter.

(Pub. L. 103-325, title II, §259, Sept. 23, 1994, 108 Stat. 2214.)

§ 4750. Authorization of appropriations

(a) Amount

There are authorized to be appropriated to the Fund \$50,000,000 to carry out this subchapter.

(b) Budgetary treatment

The amount authorized to be appropriated under subsection (a) of this section shall be subject to discretionary spending caps, as provided in section 665¹ of title 2, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

(Pub. L. 103-325, title II, §260, Sept. 23, 1994, 108 Stat. 2214.)

¹ See References in Text note below.

REFERENCES IN TEXT

Section 665 of title 2, referred to in subsec. (b), was repealed by Pub. L. 105-33, title X, §10118(a), Aug. 5, 1997, 111 Stat. 695.

**CHAPTER 48—FINANCIAL INSTITUTIONS
REGULATORY IMPROVEMENT**

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§ 4801. Incorporated definitions

Unless otherwise specifically provided in this chapter, for purposes of this chapter—

- (1) the terms “appropriate Federal banking agency”, “Federal banking agencies”, “insured depository institution”, and “State bank supervisor” have the same meanings as in section 1813 of this title; and
- (2) the term “insured credit union” has the same meaning as in section 1752 of this title.

(Pub. L. 103-325, title III, §301, Sept. 23, 1994, 108 Stat. 2214.)

REFERENCES IN TEXT

This chapter, referred to in text, was in original “this title” meaning title III of Pub. L. 103-325, Sept. 23, 1994, 108 Stat. 2214, which enacted this chapter, sections 633 and 2606 of this title, and section 5329 of Title 31, Money and Finance, amended sections 1, 24, 27, 72, 93, 161, 248, 250, 324, 375a, 375b, 482, 462a, 464, 468, 1813, 1815, 1817, 1819 to 1821, 1823, 1828, 1831f, 1831m, 1831p-1, 1831t, 1842, 1843, 1849, 1865, 1953, 2605, 3201, 3205, 3207, 3351, and 4313 of this title and sections 77c, 78c, 1667c, and 1681g of Title 15, Commerce and Trade, enacted provisions set out as notes under this section, sections 24, 633, 1468, 1820, 1831p-1, and 1831t of this title, and sections 78c and 1667c of Title 15, and amended provisions set out as notes under sections 1825 and 1828 of this title. For complete classification of title III to the Code, see Tables.

USE OF SUBORDINATED DEBT TO PROTECT FINANCIAL SYSTEM AND DEPOSIT FUNDS FROM “TOO BIG TO FAIL” INSTITUTIONS

Pub. L. 106-102, title I, §108, Nov. 12, 1999, 113 Stat. 1361, provided that:

“(a) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall conduct a study of—

- “(1) the feasibility and appropriateness of establishing a requirement that, with respect to large insured depository institutions and depository institution holding companies the failure of which could have serious adverse effects on economic conditions or financial stability, such institutions and holding companies maintain some portion of their capital in the form of subordinated debt in order to bring market forces and market discipline to bear on the operation of, and the assessment of the viability of, such institutions and companies and reduce the risk to economic conditions, financial stability, and any deposit insurance fund;