

(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, that is in effect on July 21, 2010; or

(2) the rights of employees under chapter 71 of title 5.

(Pub. L. 111-203, title I, §156, July 21, 2010, 124 Stat. 1419.)

PART C—ADDITIONAL BOARD OF GOVERNORS AUTHORITY FOR CERTAIN NONBANK FINANCIAL COMPANIES AND BANK HOLDING COMPANIES

§ 5361. Reports by and examinations of nonbank financial companies by the Board of Governors

(a) Reports

(1) In general

The Board of Governors may require each nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit reports under oath, to keep the Board of Governors informed as to—

(A) the financial condition of the company or subsidiary, systems of the company or subsidiary for monitoring and controlling financial, operating, and other risks, and the extent to which the activities and operations of the company or subsidiary pose a threat to the financial stability of the United States; and

(B) compliance by the company or subsidiary with the requirements of this subchapter.

(2) Use of existing reports and information

In carrying out subsection (a), the Board of Governors shall, to the fullest extent possible, use—

(A) reports and supervisory information that a nonbank financial company or subsidiary thereof has been required to provide to other Federal or State regulatory agencies;

(B) information otherwise obtainable from Federal or State regulatory agencies;

(C) information that is otherwise required to be reported publicly; and

(D) externally audited financial statements of such company or subsidiary.

(3) Availability

Upon the request of the Board of Governors, a nonbank financial company supervised by the Board of Governors, or a subsidiary thereof, shall promptly provide to the Board of Governors any information described in paragraph (2).

(b) Examinations

(1) In general

Subject to paragraph (2), the Board of Governors may examine any nonbank financial company supervised by the Board of Governors and any subsidiary of such company, to inform the Board of Governors of—

(A) the nature of the operations and financial condition of the company and such subsidiary;

(B) the financial, operational, and other risks of the company or such subsidiary that

may pose a threat to the safety and soundness of such company or subsidiary or to the financial stability of the United States;

(C) the systems for monitoring and controlling such risks; and

(D) compliance by the company or such subsidiary with the requirements of this subchapter.

(2) Use of examination reports and information

For purposes of this subsection, the Board of Governors shall, to the fullest extent possible, rely on reports of examination of any subsidiary depository institution or functionally regulated subsidiary made by the primary financial regulatory agency for that subsidiary, and on information described in subsection (a)(2).

(c) Coordination with primary financial regulatory agency

The Board of Governors shall—

(1) provide reasonable notice to, and consult with, the primary financial regulatory agency for any subsidiary before requiring a report or commencing an examination of such subsidiary under this section; and

(2) avoid duplication of examination activities, reporting requirements, and requests for information, to the fullest extent possible.

(Pub. L. 111-203, title I, §161, July 21, 2010, 124 Stat. 1420.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(1)(B) and (b)(1)(D), was in the original “this title”, meaning title I of Pub. L. 111-203, July 21, 2010, 124 Stat. 1391, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 5301 of this title and Tables.

§ 5362. Enforcement

(a) In general

Except as provided in subsection (b), a nonbank financial company supervised by the Board of Governors and any subsidiaries of such company (other than any depository institution subsidiary) shall be subject to the provisions of subsections (b) through (n) of section 1818 of this title, in the same manner and to the same extent as if the company were a bank holding company, as provided in section 1818(b)(3) of this title.

(b) Enforcement authority for functionally regulated subsidiaries

(1) Referral

If the Board of Governors determines that a condition, practice, or activity of a depository institution subsidiary or functionally regulated subsidiary of a nonbank financial company supervised by the Board of Governors does not comply with the regulations or orders prescribed by the Board of Governors under this Act, or otherwise poses a threat to the financial stability of the United States, the Board of Governors may recommend, in writing, to the primary financial regulatory agency for the subsidiary that such agency initiate a supervisory action or enforcement proceeding. The recommendation shall be accom-

panied by a written explanation of the concerns giving rise to the recommendation.

(2) Back-up authority of the Board of Governors

If, during the 60-day period beginning on the date on which the primary financial regulatory agency receives a recommendation under paragraph (1), the primary financial regulatory agency does not take supervisory or enforcement action against a subsidiary that is acceptable to the Board of Governors, the Board of Governors (upon a vote of its members) may take the recommended supervisory or enforcement action, as if the subsidiary were a bank holding company subject to supervision by the Board of Governors.

(Pub. L. 111-203, title I, §162, July 21, 2010, 124 Stat. 1421.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), is Pub. L. 111-203, July 21, 2010, 124 Stat. 1376, known as the Dodd-Frank Wall Street Reform and Consumer Protection Act, which enacted this chapter and chapters 108 (§8201 et seq.) and 109 (§8301 et seq.) of Title 15, Commerce and Trade, and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

§ 5363. Acquisitions

(a) Acquisitions of banks; treatment as a bank holding company

For purposes of section 1842 of this title, a nonbank financial company supervised by the Board of Governors shall be deemed to be, and shall be treated as, a bank holding company.

(b) Acquisition of nonbank companies

(1) Prior notice for large acquisitions

Notwithstanding section 1843(k)(6)(B) of this title, a bank holding company with total consolidated assets equal to or greater than \$50,000,000,000 or a nonbank financial company supervised by the Board of Governors shall not acquire direct or indirect ownership or control of any voting shares of any company (other than an insured depository institution) that is engaged in activities described in section 1843(k) of this title having total consolidated assets of \$10,000,000,000 or more, without providing written notice to the Board of Governors in advance of the transaction.

(2) Exemptions

The prior notice requirement in paragraph (1) shall not apply with regard to the acquisition of shares that would qualify for the exemptions in section 1843(c) of this title or section 1843(k)(4)(E) of this title.

(3) Notice procedures

The notice procedures set forth in section 1843(j)(1) of this title, without regard to section 1843(j)(3) of this title, shall apply to an acquisition of any company (other than an insured depository institution) by a bank holding company with total consolidated assets equal to or greater than \$50,000,000,000 or a nonbank financial company supervised by the Board of Governors, as described in paragraph

(1), including any such company engaged in activities described in section 1843(k) of this title.

(4) Standards for review

In addition to the standards provided in section 1843(j)(2) of this title, the Board of Governors shall consider the extent to which the proposed acquisition would result in greater or more concentrated risks to global or United States financial stability or the United States economy.

(5) Hart-Scott-Rodino filing requirement

Solely for purposes of section 18a(c)(8) of title 15, the transactions subject to the requirements of paragraph (1) shall be treated as if Board of Governors approval is not required.

(Pub. L. 111-203, title I, §163, July 21, 2010, 124 Stat. 1422.)

§ 5364. Prohibition against management interlocks between certain financial companies

A nonbank financial company supervised by the Board of Governors shall be treated as a bank holding company for purposes of the Depository Institutions¹ Management Interlocks Act (12 U.S.C. 3201 et seq.), except that the Board of Governors shall not exercise the authority provided in section 7² of that Act (12 U.S.C. 3207) to permit service by a management official of a nonbank financial company supervised by the Board of Governors as a management official of any bank holding company with total consolidated assets equal to or greater than \$50,000,000,000, or other nonaffiliated nonbank financial company supervised by the Board of Governors (other than to provide a temporary exemption for interlocks resulting from a merger, acquisition, or consolidation).

(Pub. L. 111-203, title I, §164, July 21, 2010, 124 Stat. 1423.)

REFERENCES IN TEXT

The Depository Institution Management Interlocks Act, referred to in text, is title II of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3672, which is classified principally to chapter 33 (§3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

§ 5365. Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies

(a) In general

(1) Purpose

In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected financial institutions, the Board of Governors shall, on its own or pursuant to recommendations by the Council under section 5325 of this title, establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank

¹ So in original. Probably should be "Institution".

² So in original. There is no section 7 of such Act.