

such notice, the State adopts legislation to override such preemption.

(h) Non-discrimination against non-affiliated agents

The Federal banking agencies shall ensure that the regulations prescribed pursuant to subsection (a) shall not have the effect of discriminating, either intentionally or unintentionally, against any person engaged in insurance sales or solicitations that is not affiliated with a depository institution.

(Sept. 21, 1950, ch. 967, §2[47], as added Pub. L. 106-102, title III, §305, Nov. 12, 1999, 113 Stat. 1410.)

§ 1831y. CRA sunshine requirements

(a) Public disclosure of agreements

Any agreement (as defined in subsection (e)) entered into after November 12, 1999, by an insured depository institution or affiliate with a nongovernmental entity or person made pursuant to or in connection with the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.] involving funds or other resources of such insured depository institution or affiliate—

(1) shall be in its entirety fully disclosed, and the full text thereof made available to the appropriate Federal banking agency with supervisory responsibility over the insured depository institution and to the public by each party to the agreement; and

(2) shall obligate each party to comply with this section.

(b) Annual report of activity by insured depository institution

Each insured depository institution or affiliate that is a party to an agreement described in subsection (a) shall report to the appropriate Federal banking agency with supervisory responsibility over the insured depository institution, not less frequently than once each year, such information as the Federal banking agency may by rule require relating to the following actions taken by the party pursuant to the agreement during the preceding 12-month period:

(1) Payments, fees, or loans made to any party to the agreement or received from any party to the agreement and the terms and conditions of the same.

(2) Aggregate data on loans, investments, and services provided by each party in its community or communities pursuant to the agreement.

(3) Such other pertinent matters as determined by regulation by the appropriate Federal banking agency with supervisory responsibility over the insured depository institution.

(c) Annual report of activity by nongovernmental entities

(1) In general

Each nongovernmental entity or person that is not an affiliate of an insured depository institution and that is a party to an agreement described in subsection (a) shall report to the appropriate Federal banking agency with supervisory responsibility over the insured depository institution that is a party to such

agreement, not less frequently than once each year, an accounting of the use of funds received pursuant to each such agreement during the preceding 12-month period.

(2) Submission to insured depository institution

A nongovernmental entity or person referred to in paragraph (1) may comply with the reporting requirement in such paragraph by transmitting the report to the insured depository institution that is a party to the agreement, and such insured depository institution shall promptly transmit such report to the appropriate Federal banking agency with supervisory authority over the insured depository institution.

(3) Information to be included

The accounting referred to in paragraph (1) shall include a detailed, itemized list of the uses to which such funds have been made, including compensation, administrative expenses, travel, entertainment, consulting and professional fees paid, and such other categories, as determined by regulation by the appropriate Federal banking agency with supervisory responsibility over the insured depository institution.

(d) Applicability

Subsections (b) and (c) shall not apply with respect to any agreement entered into before the end of the 6-month period beginning on November 12, 1999.

(e) Definitions

(1) Agreement

For purposes of this section, the term “agreement”—

(A) means—

(i) any written contract, written arrangement, or other written understanding that provides for cash payments, grants, or other consideration with a value in excess of \$10,000, or for loans the aggregate amount of principal of which exceeds \$50,000, annually (or the sum of all such agreements during a 12-month period with an aggregate value of cash payments, grants, or other consideration in excess of \$10,000, or with an aggregate amount of loan principal in excess of \$50,000); or

(ii) a group of substantively related contracts with an aggregate value of cash payments, grants, or other consideration in excess of \$10,000, or with an aggregate amount of loan principal in excess of \$50,000, annually;

made pursuant to, or in connection with, the fulfillment of the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.], at least 1 party to which is an insured depository institution or affiliate thereof, whether organized on a profit or not-for-profit basis; and

(B) does not include—

(i) any individual mortgage loan;

(ii) any specific contract or commitment for a loan or extension of credit to individuals, businesses, farms, or other entities, if the funds are loaned at rates not substantially below market rates and if the pur-

pose of the loan or extension of credit does not include any re-lending of the borrowed funds to other parties; or

(iii) any agreement entered into by an insured depository institution or affiliate with a nongovernmental entity or person who has not commented on, testified about, or discussed with the institution, or otherwise contacted the institution, concerning the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.].

(2) Fulfillment of CRA

For purposes of subparagraph (A), the term “fulfillment” means a list of factors that the appropriate Federal banking agency determines have a material impact on the agency’s decision—

(A) to approve or disapprove an application for a deposit facility (as defined in section 803 of the Community Reinvestment Act of 1977 [12 U.S.C. 2902]); or

(B) to assign a rating to an insured depository institution under section 807 of the Community Reinvestment Act of 1977 [12 U.S.C. 2906].

(f) Violations

(1) Violations by persons other than insured depository institutions or their affiliates

(A) Material failure to comply

If the party to an agreement described in subsection (a) that is not an insured depository institution or affiliate willfully fails to comply with this section in a material way, as determined by the appropriate Federal banking agency, the agreement shall be unenforceable after the offending party has been given notice and a reasonable period of time to perform or comply.

(B) Diversion of funds or resources

If funds or resources received under an agreement described in subsection (a) have been diverted contrary to the purposes of the agreement for personal financial gain, the appropriate Federal banking agency with supervisory responsibility over the insured depository institution may impose either or both of the following penalties:

(i) Disgorgement by the offending individual of funds received under the agreement.

(ii) Prohibition of the offending individual from being a party to any agreement described in subsection (a) for a period of not to exceed 10 years.

(2) Designation of successor nongovernmental party

If an agreement described in subsection (a) is found to be unenforceable under this subsection, the appropriate Federal banking agency may assist the insured depository institution in identifying a successor nongovernmental party to assume the responsibilities of the agreement.

(3) Inadvertent or de minimis reporting errors

An error in a report filed under subsection (c) that is inadvertent or de minimis shall not subject the filing party to any penalty.

(g) Rule of construction

No provision of this section shall be construed as authorizing any appropriate Federal banking agency to enforce the provisions of any agreement described in subsection (a).

(h) Regulations

(1) In general

Each appropriate Federal banking agency shall prescribe regulations, in accordance with paragraph (4), requiring procedures reasonably designed to ensure and monitor compliance with the requirements of this section.

(2) Protection of parties

In carrying out paragraph (1), each appropriate Federal banking agency shall—

(A) ensure that the regulations prescribed by the agency do not impose an undue burden on the parties and that proprietary and confidential information is protected; and

(B) establish procedures to allow any nongovernmental entity or person who is a party to a large number of agreements described in subsection (a) to make a single or consolidated filing of a report under subsection (c) to an insured depository institution or an appropriate Federal banking agency.

(3) Parties not subject to reporting requirements

The Board of Governors of the Federal Reserve System may prescribe regulations—

(A) to prevent evasions of subsection (e)(1)(B)(iii); and

(B) to provide further exemptions under such subsection, consistent with the purposes of this section.

(4) Coordination, consistency, and comparability

In carrying out paragraph (1), each appropriate Federal banking agency shall consult and coordinate with the other such agencies for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency are consistent and comparable with the regulations prescribed by the other such agencies.

(Sept. 21, 1950, ch. 967, §2[48], as added Pub. L. 106-102, title VII, §711, Nov. 12, 1999, 113 Stat. 1465.)

REFERENCES IN TEXT

The Community Reinvestment Act of 1977, referred to in subsecs. (a) and (e)(1)(A), (B)(iii), is title VIII of Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1147, as amended, which is classified generally to chapter 30 (§2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

§ 1831z. Bi-annual FDIC survey and report on encouraging use of depository institutions by the unbanked

(a) Survey required

(1) In general

The Corporation shall conduct a bi-annual survey on efforts by insured depository institutions to bring those individuals and families