

AMENDMENTS

1966—Pub. L. 89-485 reduced from 60 to 30 days the period allowed for the filing of a petition to obtain judicial review of a Board order.

1958—Pub. L. 85-791 substituted, in second sentence, “transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28” for “served upon the Board, and thereupon the Board shall certify and file in the court a transcript of the record made before the Board”, and in third sentence, “such petition” for “the transcript”.

§ 1848a. Repealed. Pub. L. 111-203, title VI, § 604(c)(2), July 21, 2010, 124 Stat. 1601

Section, act May 9, 1956, ch. 240, §10A, as added Pub. L. 106-102, title I, §113, Nov. 12, 1999, 113 Stat. 1368, related to limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

EFFECTIVE DATE OF REPEAL

Repeal effective on the transfer date, see section 604(j) of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 1462 of this title.

§ 1849. Saving provision

(a) General rule

Nothing herein contained shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any prohibited antitrust or monopolistic act, action, or conduct, except as specifically provided in this section.

(b) Antitrust review

(1) In general

The Board shall immediately notify the Attorney General of any approval by it pursuant to section 1842 of this title of a proposed acquisition, merger, or consolidation transaction and, if the transaction also involves an acquisition under section 1843 of this title, the Board shall also notify the Federal Trade Commission of such approval. If the Board has found that it must act immediately in order to prevent the probable failure of a bank or bank holding company involved in any such transaction, the transaction may be consummated immediately upon approval by the Board. If the Board has advised the Comptroller of the Currency or the State supervisory authority, as the case may be, of the existence of an emergency requiring expeditious action and has required the submission of views and recommendations within ten days, the transaction may not be consummated before the fifth calendar day after the date of approval by the Board. In all other cases, the transaction may not be consummated before the thirtieth calendar day after the date of approval by the Board or, if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval. Any action brought under the antitrust laws arising out of an acquisi-

tion, merger, or consolidation transaction approved under section 1842 of this title shall be commenced prior to the earliest time under this subsection at which the transaction approval under section 1842 of this title might be consummated. The commencement of such an action shall stay the effectiveness of the Board's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented. In any judicial proceeding attacking any acquisition, merger, or consolidation transaction approved pursuant to section 1842 of this title on the ground that such transaction alone and of itself constituted a violation of any antitrust laws other than section 2 of title 15, the standards applied by the court shall be identical with those that the Board is directed to apply under section 1842 of this title. Upon the consummation of an acquisition, merger, or consolidation transaction approved under section 1842 of this title in compliance with this chapter and after the termination of any antitrust litigation commenced within the period prescribed in this section, or upon the termination of such period if no such litigation is commenced therein, the transaction may not thereafter be attacked in any judicial proceeding on the ground that it alone and of itself constituted a violation of any antitrust laws other than section 2 of title 15, but nothing in this chapter shall exempt any bank holding company involved in such a transaction from complying with the antitrust laws after the consummation of such transaction.

(2) Section 1823(f) cases

(A) If—

(i) the Federal Deposit Insurance Corporation learns that a bank insured by such Corporation is in danger of closing; and

(ii) the Corporation is considering assisting the acquisition of such bank and its affiliated banks by another bank or holding company under section 1823(f) of this title and such acquisition is subject to the approval of the Board under section 1842 of this title;

the Corporation shall immediately notify the Board of such facts.

(B) Upon receipt of notice from the Federal Deposit Insurance Corporation under subparagraph (A) or at such earlier time as deemed appropriate by the Board, the Board shall immediately notify the Attorney General of the United States of the facts concerning the possible acquisition.

(C) Within 5 days of receiving notice under subparagraph (B), the Attorney General shall notify the Board in writing of the Attorney General's preliminary finding as to the consistency of the possible acquisition with the antitrust laws.

(D) The Board may reduce or eliminate the post-approval waiting period established under paragraph (1) for an acquisition to which this paragraph applies, except that such period may not be eliminated or reduced to less than 5 days without the concurrence of the Attorney General.