

tion, subject to the conditions hereinafter provided.

**(f) Removal as fiduciary; discrimination**

Where any consolidating bank or banking association, at the time of the consolidation, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, or receiver, or in any other fiduciary capacity, the consolidated national banking association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such consolidating bank or banking association prior to the consolidation. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the consolidated national banking association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any consolidated national banking association be removed solely because of the fact that it is a national banking association.

**(g) Issuance of stock by consolidated association; preemptive rights**

Stock of the consolidated national banking association may be issued as provided by the terms of the consolidation agreement, free from any preemptive rights of the shareholders of the respective consolidating banks.

(Nov. 7, 1918, ch. 209, § 2, formerly § 1, as added Pub. L. 86-230, § 20, Sept. 8, 1959, 73 Stat. 460; renumbered § 2 and amended Pub. L. 103-328, title I, § 102(b)(4)(C), Sept. 29, 1994, 108 Stat. 2351; Pub. L. 112-231, § 2(b)(2)(A), Dec. 28, 2012, 126 Stat. 1619.)

CODIFICATION

Provisions similar to those comprising this section were contained in sections 1 and 2 of act Nov. 7, 1918, ch. 209, 40 Stat. 1043, and section 3 of act Nov. 7, 1918, ch. 209, added Feb. 25, 1927, ch. 191, § 1, 44 Stat. 1225 (formerly classified to sections 33 to 34a of this title) prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

AMENDMENTS

2012—Subsec. (e). Pub. L. 112-231, § 2(b)(2)(A)(i), substituted “and receiver” for “receiver, and committee of estates of lunatics”.

Subsec. (f). Pub. L. 112-231, § 2(b)(2)(A)(ii), substituted “or receiver” for “receiver, or committee of estates of lunatics”.

1994—Pub. L. 103-328 inserted section catchline and, in subsec. (a), inserted heading and substituted “Any national bank” for “Any national banking association”.

SHORT TITLE

Act Nov. 7, 1918, ch. 209, § 1, as added by Pub. L. 103-328, title I, § 102(b)(4)(C), Sept. 29, 1994, 108 Stat. 2351, provided that: “This Act [enacting this subchapter] may be cited as the ‘National Bank Consolidation and Merger Act.’”

**§ 215a. Merger of national banks or State banks into national banks**

**(a) Approval of Comptroller, board and shareholders; merger agreement; notice; capital stock; liability of receiving association**

One or more national banking associations or one or more State banks, with the approval of the Comptroller, under an agreement not inconsistent with this subchapter, may merge into a national banking association located within the same State, under the charter of the receiving association. The merger agreement shall—

(1) be agreed upon in writing by a majority of the board of directors of each association or State bank participating in the plan of merger;

(2) be ratified and confirmed by the affirmative vote of the shareholders of each such association or State bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of a State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors, after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or State bank is located, or, if there is no such newspaper, then in the newspaper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State banks;

(3) specify the amount of the capital stock of the receiving association, which shall not be less than that required under existing law for the organization of a national bank in the place in which it is located and which will be outstanding upon completion of the merger, the amount of stock (if any) to be allocated, and cash (if any) to be paid, to the shareholders of the association or State bank being merged into the receiving association; and

(4) provide that the receiving association shall be liable for all liabilities of the association or State bank being merged into the receiving association.

**(b) Dissenting shareholders**

If a merger shall be voted for at the called meetings by the necessary majorities of the shareholders of each association or State bank participating in the plan of merger, and thereafter the merger shall be approved by the Comptroller, any shareholder of any association or State bank to be merged into the receiving association who has voted against such merger at the meeting of the association or bank of which he is a stockholder, or has given notice in writ-

ing at or prior to such meeting to the presiding officer that he dissents from the plan of merger, shall be entitled to receive the value of the shares so held by him when such merger shall be approved by the Comptroller upon written request made to the receiving association at any time before thirty days after the date of consummation of the merger, accompanied by the surrender of his stock certificates.

**(c) Valuation of shares**

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the merger, by an appraisal made by a committee of three persons, composed of (1) one selected by the vote of the holders of the majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the receiving association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

**(d) Application to shareholders of merging associations: appraisal by Comptroller; expenses of receiving association; sale and resale of shares; State appraisal and merger law**

If, within ninety days from the date of consummation of the merger, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the receiving association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the receiving association. The shares of stock of the receiving association which would have been delivered to such dissenting shareholders had they not requested payment shall be sold by the receiving association at an advertised public auction, and the receiving association shall have the right to purchase any of such shares at such public auction, if it is the highest bidder therefor, for the purpose of reselling such shares within thirty days thereafter to such person or persons and at such price not less than par as its board of directors by resolution may determine. If the shares are sold at public auction at a price greater than the amount paid to the dissenting shareholders, the excess in such sale price shall be paid to such dissenting shareholders. The appraisal of such shares of stock in any State bank shall be determined in the manner prescribed by the law of the State in such cases, rather than as provided in this section, if such provision is made in the State law; and no such merger shall be in contravention of the law of the State under which such bank is incorporated. The provisions of this subsection shall apply only to shareholders of (and stock owned by them in) a bank or

association being merged into the receiving association.

**(e) Status of receiving association; property rights and interests vested and held as fiduciary**

The corporate existence of each of the merging banks or banking associations participating in such merger shall be merged into and continued in the receiving association and such receiving association shall be deemed to be the same corporation as each bank or banking association participating in the merger. All rights, franchises, and interests of the individual merging banks or banking associations in and to every type of property (real, personal, and mixed) and choses in action shall be transferred to and vested in the receiving association by virtue of such merger without any deed or other transfer. The receiving association, upon the merger and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises, and interests, including appointments, designations, and nominations, and all other rights and interests as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, and receiver, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any one of the merging banks or banking associations at the time of the merger, subject to the conditions hereinafter provided.

**(f) Removal as fiduciary; discrimination**

Where any merging bank or banking association, at the time of the merger, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, or receiver, or in any other fiduciary capacity, the receiving association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such merging bank or banking association prior to the merger. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the receiving association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any receiving association be removed solely because of the fact that it is a national banking association.

**(g) Issuance of stock by receiving association; preemptive rights**

Stock of the receiving association may be issued as provided by the terms of the merger agreement, free from any preemptive rights of the shareholders of the respective merging banks.

(Nov. 7, 1918, ch. 209, §3, formerly §2, as added Pub. L. 86-230, §20, Sept. 8, 1959, 73 Stat. 463; renumbered §3, Pub. L. 103-328, title I, §102(b)(4)(A), Sept. 29, 1994, 108 Stat. 2351; amended Pub. L. 112-231, §2(b)(2)(B), Dec. 28, 2012, 126 Stat. 1619.)

## CODIFICATION

Provisions similar to those comprising this section were contained in section 4 of act Nov. 7, 1918, ch. 209, as added July 14, 1952, ch. 722, § 1, 66 Stat. 599 (formerly classified to section 34b of this title), prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

## AMENDMENTS

2012—Subsec. (e). Pub. L. 112-231, § 2(b)(2)(B)(i), substituted “and receiver” for “receiver, and committee of estates of lunatics”.

Subsec. (f). Pub. L. 112-231, § 2(b)(2)(B)(ii), substituted “or receiver” for “receiver, or committee of estates of lunatics”.

**§ 215a-1. Interstate consolidations and mergers****(a) In general**

A national bank may engage in a consolidation or merger under this subchapter with an out-of-State bank if the consolidation or merger is approved pursuant to section 1831u of this title.

**(b) Scope of application**

Subsection (a) shall not apply with respect to any consolidation or merger before June 1, 1997, unless the home State of each bank involved in the transaction has in effect a law described in section 1831u(a)(3) of this title.

**(c) Definitions**

The terms “home State” and “out-of-State bank” have the same meaning as in section 1831u(f)<sup>1</sup> of this title.

(Nov. 7, 1918, ch. 209, § 4, as added Pub. L. 103-328, title I, § 102(b)(4)(D), Sept. 29, 1994, 108 Stat. 2351.)

## REFERENCES IN TEXT

Section 1831u of this title, referred to in subsec. (c), was subsequently amended, and subsec. (f) of section 1831u no longer defines the terms “home State” and “out-of-State bank”. However, such terms are defined elsewhere in that section.

**§ 215a-2. Expedited procedures for certain reorganizations****(a) In general**

A national bank may, with the approval of the Comptroller, pursuant to rules and regulations promulgated by the Comptroller, and upon the affirmative vote of the shareholders of such bank owning at least two-thirds of its capital stock outstanding, reorganize so as to become a subsidiary of a bank holding company or of a company that will, upon consummation of such reorganization, become a bank holding company.

**(b) Reorganization plan**

A reorganization authorized under subsection (a) shall be carried out in accordance with a reorganization plan that—

- (1) specifies the manner in which the reorganization shall be carried out;
- (2) is approved by a majority of the entire board of directors of the national bank;
- (3) specifies—

(A) the amount of cash or securities of the bank holding company, or both, or other

consideration to be paid to the shareholders of the reorganizing bank in exchange for their shares of stock of the bank;

(B) the date as of which the rights of each shareholder to participate in such exchange will be determined; and

(C) the manner in which the exchange will be carried out; and

(4) is submitted to the shareholders of the reorganizing bank at a meeting to be held on the call of the directors in accordance with the procedures prescribed in connection with a merger of a national bank under section 215a of this title.

**(c) Rights of dissenting shareholders**

If, pursuant to this section, a reorganization plan has been approved by the shareholders and the Comptroller, any shareholder of the bank who has voted against the reorganization at the meeting referred to in subsection (b)(4), or has given notice in writing at or prior to that meeting to the presiding officer that the shareholder dissents from the reorganization plan, shall be entitled to receive the value of his or her shares, as provided by section 215a of this title for the merger of a national bank.

**(d) Effect of reorganization**

The corporate existence of a national bank that reorganizes in accordance with this section shall not be deemed to have been affected in any way by reason of such reorganization.

**(e) Approval under the Bank Holding Company Act**

This section does not affect in any way the applicability of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.] to a transaction described in subsection (a).

(Nov. 7, 1918, ch. 209, § 5, as added Pub. L. 106-569, title XII, § 1204(2), Dec. 27, 2000, 114 Stat. 3033.)

## REFERENCES IN TEXT

The Bank Holding Company Act of 1956, referred to in subsec. (e), is act May 9, 1956, ch. 240, 70 Stat. 133, as amended, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

**§ 215a-3. Mergers and consolidations with subsidiaries and nonbank affiliates****(a) In general**

Upon the approval of the Comptroller, a national bank may merge with one or more of its nonbank subsidiaries or affiliates.

**(b) Scope**

Nothing in this section shall be construed—

- (1) to affect the applicability of section 1828(c) of this title; or
- (2) to grant a national bank any power or authority that is not permissible for a national bank under other applicable provisions of law.

**(c) Regulations**

The Comptroller shall promulgate regulations to implement this section.

(Nov. 7, 1918, ch. 209, § 6, as added Pub. L. 106-569, title XII, § 1206, Dec. 27, 2000, 114 Stat. 3034.)

<sup>1</sup> See References in Text note below.