

(ii) the impact of this chapter on consumers and depository institutions.

(2) Evaluation of temporary schedule report

(A) Report required

The Board shall transmit a report to both Houses of the Congress not later than 2 years after August 10, 1987, regarding the effects the temporary schedule established under section 4002(c) of this title have had on depository institutions and the public.

(B) Contents of report

Such report shall also assess the potential impact the implementation of the schedule established in section 4002(b) of this title will have on depository institutions and the public, including an estimate of the risks to and losses of depository institutions and the benefits to consumers. Such report shall also contain such recommendations for legislative or administrative action as the Board may determine to be necessary.

(3) Comptroller General evaluation report

Not later than 6 months after September 1, 1988, the Comptroller General of the United States shall transmit a report to the Congress evaluating the implementation and administration of this chapter.

(e) Consultations

In prescribing regulations under subsections (a) and (b), the Board and the Director of the Bureau of Consumer Financial Protection, in the case of subsection (a), and the Board, in the case of subsection (b), shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.

(f) Electronic clearinghouse study

(1) Study required

The Board shall study the feasibility of modernizing and accelerating the check payment system through the development of an electronic clearinghouse process utilizing existing telecommunications technology to avoid the necessity of actual presentment of the paper instrument to a payor institution before such institution is charged for the item.

(2) Consultation; factors to be studied

In connection with the study required under paragraph (1), the Board shall—

(A) consult with appropriate experts in telecommunications technology; and

(B) consider all practical and legal impediments to the development of an electronic clearinghouse process.

(3) Report required

The Board shall report its conclusions to the Congress within 9 months of August 10, 1987.

(Pub. L. 100-86, title VI, § 609, Aug. 10, 1987, 101 Stat. 647; Pub. L. 111-203, title X, § 1086(d), July 21, 2010, 124 Stat. 2086.)

CODIFICATION

In subsec. (d)(3), “September 1, 1988” substituted for “section 603(b) takes effect” on authority of section

613(b) of Pub. L. 100-86, set out as an Effective Date note under section 4001 of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, § 1086(d)(1), inserted “, jointly with the Director of the Bureau of Consumer Financial Protection,” after “Board” in introductory provisions.

Subsec. (e). Pub. L. 111-203, § 1086(d)(2), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: “In prescribing regulations under subsections (a) and (b) of this section, the Board shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EXCEPTIONS IN AREAS WHERE MAJOR DISASTER EXISTS

Pub. L. 105-18, title V, § 50002, June 12, 1997, 111 Stat. 211, provided that:

“(a) TRUTH IN LENDING ACT.—During the 240-day period beginning on the date of enactment of this Act [June 12, 1997], the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act [15 U.S.C. 1601 et seq.] for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170], has determined, on or after February 28, 1997, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1997 flooding of the Red River of the North, the Minnesota River, and the tributaries of such rivers, if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

“(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 240-day period beginning on the date of enactment of this Act [June 12, 1997], the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act [12 U.S.C. 4001 et seq.] for depository institution offices located within any area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

“(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than September 1, 1998.

“(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

“(1) describes any exception made under this section; and

“(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.”

Similar provisions were contained in the following prior acts:

Pub. L. 103-76, § 2, Aug. 12, 1993, 107 Stat. 752.

Pub. L. 102-485, § 3, Oct. 23, 1992, 106 Stat. 2772.

§ 4009. Administrative enforcement

(a) Administrative enforcement

Compliance with the requirements imposed under this chapter, including regulations prescribed by and orders issued by the Board of Governors of the Federal Reserve System under this chapter, shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], by the Director of the Office of Thrift Supervision in the case of savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(3) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the National Credit Union Administration Board with respect to any Federal credit union or insured credit union.

The terms used in paragraph (1) that are not defined in this chapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(b) Additional powers

(1) Violation of this chapter treated as violation of other Acts

For purposes of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this chapter shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other Acts

In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in such subsection may exercise, for purposes of enforcing compliance with any requirement imposed under this chapter, any other authority conferred on it by law.

(c) Enforcement by Board

(1) In general

Except to the extent that enforcement of the requirements imposed under this chapter is specifically committed to some other Government agency under subsection (a) of this section, the Board of Governors of the Federal Reserve System shall enforce such requirements.

(2) Additional remedy

If the Board determines that—

(A) any depository institution which is not a depository institution described in subsection (a), or

(B) any other person subject to the authority of the Board under this chapter, including any person subject to the authority of the Board under section 4004(d)(2) or 4008(c) of this title,

has failed to comply with any requirement imposed by this chapter or by the Board under this chapter, the Board may issue an order prohibiting any depository institution, any Federal Reserve bank, or any other person subject to the authority of the Board from engaging in any activity or transaction which directly or indirectly involves such non-complying depository institution or person (including any activity or transaction involving the receipt, payment, collection, and clearing of checks and any related function of the payment system with respect to checks).

(d) Procedural rules

The authority of the Board to prescribe regulations under this chapter does not impair the authority of any other agency designated in this section to make rules regarding its own procedures in enforcing compliance with requirements imposed under this chapter.

(Pub. L. 100-86, title VI, §610, Aug. 10, 1987, 101 Stat. 649; Pub. L. 101-73, title VII, §744(d), Aug. 9, 1989, 103 Stat. 438; Pub. L. 102-242, title II, §212(h), Dec. 19, 1991, 105 Stat. 2303.)

REFERENCES IN TEXT

The Federal Credit Union Act, referred to in subsec. (a)(3), is act June 26, 1934, ch. 750, 48 Stat. 1216, as amended, which is classified generally to chapter 14 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see section 1751 of this title and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-242, §212(h)(2), inserted at end “The terms used in paragraph (1) that are not defined in this chapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).”

Subsec. (a)(1). Pub. L. 102-242, §212(h)(1), added par. (1) and struck out former par. (1) which read as follows: “section 8 of the Federal Deposit Insurance Act in the case of—

“(A) national banks, by the Comptroller of the Currency;

“(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System; and

“(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;”.

1989—Subsec. (a)(2). Pub. L. 101-73 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “section 5(d) of the Home Owners’ Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and”.

EFFECTIVE DATE

Section effective Sept. 1, 1988, see section 613(b) of Pub. L. 100-86, set out as a note under section 4001 of this title.

§ 4010. Civil liability**(a) Civil liability**

Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this chapter or any regulation prescribed under this chapter with respect to any person other than another depository institution is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than \$100 nor greater than \$1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of \$500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) Class action awards

In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) Bona fide errors**(1) General rule**

A depository institution may not be held liable in any action brought under this section for a violation of this chapter if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Examples

Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this chapter is not a bona fide error.

(d) Jurisdiction

Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within

one year after the date of the occurrence of the violation involved.

(e) Reliance on Board rulings

No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Authority to establish rules regarding losses and liability among depository institutions

The Board is authorized to impose on or allocate among depository institutions the risks of loss and liability in connection with any aspect of the payment system, including the receipt, payment, collection, or clearing of checks, and any related function of the payment system with respect to checks. Liability under this subsection shall not exceed the amount of the check giving rise to the loss or liability, and, where there is bad faith, other damages, if any, suffered as a proximate consequence of any act or omission giving rise to the loss or liability.

(Pub. L. 100-86, title VI, §611, Aug. 10, 1987, 101 Stat. 650.)

EFFECTIVE DATE

Section effective Sept. 1, 1988, see section 613(b) of Pub. L. 100-86, set out as a note under section 4001 of this title.

CHAPTER 42—LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP**SUBCHAPTER I—PREPAYMENT OF MORTGAGES INSURED UNDER NATIONAL HOUSING ACT**

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