

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title XII of Pub. L. 111-203, July 21, 2010, 124 Stat. 2129, known as the Improving Access to Mainstream Financial Institutions Act of 2010, which is classified principally to this subchapter. For complete classification of title XII to the Code, see Short Title note set out under section 5301 of this title and Tables.

SUBCHAPTER VIII—MISCELLANEOUS

§ 5641. Enhanced compensation structure reporting**(a) Enhanced disclosure and reporting of compensation arrangements****(1) In general**

Not later than 9 months after July 21, 2010, the appropriate Federal regulators jointly shall prescribe regulations or guidelines to require each covered financial institution to disclose to the appropriate Federal regulator the structures of all incentive-based compensation arrangements offered by such covered financial institutions sufficient to determine whether the compensation structure—

(A) provides an executive officer, employee, director, or principal shareholder of the covered financial institution with excessive compensation, fees, or benefits; or

(B) could lead to material financial loss to the covered financial institution.

(2) Rules of construction

Nothing in this section shall be construed as requiring the reporting of the actual compensation of particular individuals. Nothing in this section shall be construed to require a covered financial institution that does not have an incentive-based payment arrangement to make the disclosures required under this subsection.

(b) Prohibition on certain compensation arrangements

Not later than 9 months after July 21, 2010, the appropriate Federal regulators shall jointly prescribe regulations or guidelines that prohibit any types of incentive-based payment arrangement, or any feature of any such arrangement, that the regulators determine encourages inappropriate risks by covered financial institutions—

(1) by providing an executive officer, employee, director, or principal shareholder of the covered financial institution with excessive compensation, fees, or benefits; or

(2) that could lead to material financial loss to the covered financial institution.

(c) Standards

The appropriate Federal regulators shall—

(1) ensure that any standards for compensation established under subsections (a) or (b) are comparable to the standards established under section 1831p-1¹ of this title for insured depository institutions; and

(2) in establishing such standards under such subsections, take into consideration the compensation standards described in section 1831p-1(c) of this title.

¹ See References in Text note below.

(d) Enforcement

The provisions of this section and the regulations issued under this section shall be enforced under section 505 of the Gramm-Leach-Bliley Act [15 U.S.C. 6805] and, for purposes of such section, a violation of this section or such regulations shall be treated as a violation of subtitle A of title V of such Act [15 U.S.C. 6801 et seq.].

(e) Definitions

As used in this section—

(1) the term “appropriate Federal regulator” means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Securities and Exchange Commission, the Federal Housing Finance Agency; and

(2) the term “covered financial institution” means—

(A) a depository institution or depository institution holding company, as such terms are defined in section 1813 of this title;

(B) a broker-dealer registered under section 78o of title 15;

(C) a credit union, as described in section 461(b)(1)(A)(iv) of this title;

(D) an investment advisor, as such term is defined in section 80b-2(a)(11) of title 15;

(E) the Federal National Mortgage Association;

(F) the Federal Home Loan Mortgage Corporation; and

(G) any other financial institution that the appropriate Federal regulators, jointly, by rule, determine should be treated as a covered financial institution for purposes of this section.

(f) Exemption for certain financial institutions

The requirements of this section shall not apply to covered financial institutions with assets of less than \$1,000,000,000.

(Pub. L. 111-203, title IX, §956, July 21, 2010, 124 Stat. 1905.)

REFERENCES IN TEXT

Section 1831p-1 of this title, referred to in subsec. (c)(1), was in the original “section of the Federal Deposit Insurance Act (12 U.S.C. 2 1831p-1)”, and was translated as reading “section 39 of the Federal Deposit Insurance Act”, which is classified to section 1831p-1 of this title, to reflect the probable intent of Congress.

The Gramm-Leach-Bliley Act, referred to in subsec. (d), is Pub. L. 106-102, Nov. 12, 1999, 113 Stat. 1338. Subtitle A (§§501-510) of title V of the Act is classified principally to subchapter I (§6801 et seq.) of chapter 94 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of this title and Tables.

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

CHAPTER 54—STATE SMALL BUSINESS CREDIT INITIATIVE

Sec.
5701. Definitions.

Sec.	
5702.	Federal funds allocated to States.
5703.	Approving States for participation.
5704.	Approving State capital access programs.
5705.	Approving collateral support and other innovative credit access and guarantee initiatives for small businesses and manufacturers.
5706.	Reports.
5707.	Remedies for State program termination or failures.
5708.	Implementation and administration.
5709.	Regulations.
5710.	Oversight and audits.

§ 5701. Definitions

In this chapter, the following definitions shall apply:

(1) Appropriate committees of Congress

The term “appropriate committees of Congress” means—

(A) the Committee on Small Business and Entrepreneurship, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(B) the Committee on Small Business, the Committee on Agriculture, the Committee on Financial Services, the Committee on Ways and Means, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

(2) Appropriate Federal banking agency

The term “appropriate Federal banking agency”—

(A) has the same meaning as in section 1813(q) of this title; and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act [12 U.S.C. 1751 et seq.].

(3) Enrolled loan

The term “enrolled loan” means a loan made by a financial institution lender that is enrolled by a participating State in an approved State capital access program in accordance with this chapter.

(4) Federal contribution

The term “Federal contribution” means the portion of the contribution made by a participating State to, or for the account of, an approved State program that is made with Federal funds allocated to the State by the Secretary under section 5702 of this title.

(5) Financial institution

The term “financial institution” means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in section 4702 of this title.

(6) Participating State

The term “participating State” means any State that has been approved for participation in the Program under section 5703 of this title.

(7) Program

The term “Program” means the State Small Business Credit Initiative established under this chapter.

(8) Qualifying loan or swap funding facility

The term “qualifying loan or swap funding facility” means a contractual arrangement between a participating State and a private financial entity under which—

(A) the participating State delivers funds to the entity as collateral;

(B) the entity provides funding from the arrangement back to the participating State; and

(C) the full amount of resulting funding from the arrangement, less any fees and other costs of the arrangement, is contributed to, or for the account of, an approved State program.

(9) Reserve fund

The term “reserve fund” means a fund, established by a participating State, dedicated to a particular financial institution lender, for the purposes of—

(A) depositing all required premium charges paid by the financial institution lender and by each borrower receiving a loan under an approved State program from that financial institution lender;

(B) depositing contributions made by the participating State, including State contributions made with Federal contributions; and

(C) covering losses on enrolled loans by disbursing accumulated funds.

(10) State

The term “State” means—

(A) a State of the United States;

(B) the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands;

(C) when designated by a State of the United States, a political subdivision of that State that the Secretary determines has the capacity to participate in the Program; and

(D) under the circumstances described in section 5703(d) of this title, a municipality of a State of the United States to which the Secretary has given a special permission under section 5703(d) of this title.

(11) State capital access program

The term “State capital access program” means a program of a State that—

(A) uses public resources to promote private access to credit; and

(B) meets the eligibility criteria in section 5704(c) of this title.

(12) State other credit support program

The term “State other credit support program”—

(A) means a program of a State that—

(i) uses public resources to promote private access to credit;

(ii) is not a State capital access program; and

(iii) meets the eligibility criteria in section 5705(c) of this title; and

(B) includes, collateral support programs, loan participation programs, State-run venture capital fund programs, and credit guarantee programs.