

Memorandum for the Director of the Office of Thrift Supervision

By the authority vested in me as President of the United States by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to the Director of the Office of Thrift Supervision my authority to ratify actions taken on behalf of, or in the name of, the Office of Thrift Supervision or its Director before April 9, 1990.

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

§ 1463. Supervision of savings associations

(a) Savings associations

(1) Examination and safe and sound operation

(A) Federal savings associations

The Comptroller shall provide for the examination and safe and sound operation of Federal savings associations.

(B) State savings associations

The Corporation shall provide for the examination and safe and sound operation of State savings associations.

(2) Regulations for savings associations

The Comptroller may prescribe regulations with respect to savings associations, as the Comptroller determines to be appropriate to carry out the purposes of this chapter.

(3) Safe and sound housing credit to be encouraged

The Comptroller and the Corporation shall exercise all powers granted to the Comptroller and the Corporation under this chapter so as to encourage savings associations to provide credit for housing safely and soundly.

(b) Accounting and disclosure

(1) In general

The Comptroller shall, by regulation, prescribe uniform accounting and disclosure standards for savings associations, to be used in determining savings associations' compliance with all applicable regulations.

(2) Specific requirements for accounting standards

Subject to section 1464(t) of this title, the uniform accounting standards prescribed under paragraph (1) shall—

(A) incorporate generally accepted accounting principles to the same degree that such principles are used to determine compliance with regulations prescribed by the Federal banking agencies; and

(B) allow for no deviation from full compliance with such standards as are in effect after December 31, 1993.

(3) Authority to prescribe more stringent accounting standards

The Comptroller may at any time prescribe accounting standards more stringent than required under paragraph (2) if the Comptroller determines that the more stringent standards are necessary to ensure the safe and sound operation of savings associations.

(c) Stringency of standards

The regulations of the Comptroller and the policies of the Comptroller and the Corporation

governing the safe and sound operation of savings associations, including regulations and policies governing asset classification and appraisals, shall be no less stringent than those established by the Comptroller for national banks.

(d) Investment of certain funds in accounts of savings associations

The savings accounts and share accounts of savings associations insured by the Corporation shall be lawful investments and may be accepted as security for all public funds of the United States, fiduciary and trust funds under the authority or control of the United States or any officer thereof, and for the funds of all corporations organized under the laws of the United States (subject to any regulatory authority otherwise applicable), regardless of any limitation of law upon the investment of any such funds or upon the acceptance of security for the investment or deposit of any of such funds.

(e) Participation by savings associations in lotteries and related activities

(1) Participation prohibited

No savings association may—

(A) deal in lottery tickets;

(B) deal in bets used as a means or substitute for participation in a lottery;

(C) announce, advertise, or publicize the existence of any lottery; or

(D) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(2) Use of facilities prohibited

No savings association may permit—

(A) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under paragraph (1); or

(B) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under paragraph (1).

(3) Definitions

For purposes of this subsection—

(A) Deal in

The term “deal in” includes making, taking, buying, selling, redeeming, or collecting.

(B) Lottery

The term “lottery” includes any arrangement, other than a savings promotion raffle, under which—

(i) 3 or more persons (hereafter in this subparagraph referred to as the “participants”) advance money or credit to another in exchange for the possibility or expectation that 1 or more but not all of the participants (hereafter in this paragraph referred to as the “winners”) will receive by reason of those participants' advances more than the amounts those participants have advanced; and

(ii) the identity of the winners is determined by any means which includes—

(I) a random selection;

(II) a game, race, or contest; or

(III) any record or tabulation of the result of 1 or more events in which any

participant has no interest except for the bearing that event has on the possibility that the participant may become a winner.

(C) Lottery ticket

The term “lottery ticket” includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(D) Savings promotion raffle

The term “savings promotion raffle” means a contest in which the sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account or other savings program, where each ticket or entry has an equal chance of being drawn, such contest being subject to regulations that may from time to time be promulgated by the appropriate prudential regulator (as defined in section 5481 of this title).

(4) Exception for State lotteries

Paragraphs (1) and (2) shall not apply with respect to any savings association accepting funds from, or performing any lawful services for, any State operating a lottery, or any officer or employee of such a State who is charged with administering the lottery.

(5) Regulations

The Comptroller shall prescribe such regulations as may be necessary to provide for enforcement of this subsection and to prevent any evasion of any provision of this subsection.

(f) Federally related mortgage loan disclosures

A savings association may not make a federally related mortgage loan to an agent, trustee, nominee, or other person acting in a fiduciary capacity without requiring that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the savings association. At the request of the appropriate Federal banking agency, the savings association shall report to the appropriate Federal banking agency the identity of such person and the nature and amount of the loan.

(g) Preemption of State usury laws

(1) Notwithstanding any State law, a savings association may charge interest on any extension of credit at a rate of not more than 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which such savings association is located or at the rate allowed by the laws of the State in which such savings association is located, whichever is greater.

(2) If the rate prescribed in paragraph (1) exceeds the rate such savings association would be permitted to charge in the absence of this subsection, the receiving or charging a greater rate of interest than that prescribed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the extension of credit carries with it, or which has been agreed to be paid thereon. If such greater rate of

interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the date of such payment, an amount equal to twice the amount of the interest paid from the savings association taking or receiving such interest.

(h) Form and maturity of securities

No savings association shall—

(1) issue securities which guarantee a definite maturity except with the specific approval of the appropriate Federal banking agency, or

(2) issue any securities the form of which has not been approved by the appropriate Federal banking agency.

(June 13, 1933, ch. 64, §4, as added Pub. L. 101-73, title III, §301, Aug. 9, 1989, 103 Stat. 280; amended Pub. L. 111-203, title III, §369(4), July 21, 2010, 124 Stat. 1558; Pub. L. 113-251, §3(d), Dec. 18, 2014, 128 Stat. 2889.)

PRIOR PROVISIONS

A prior section 1463, acts June 13, 1933, ch. 64, §4, 48 Stat. 129; Apr. 27, 1934, ch. 168, §§1(a), 2-4, 13, 48 Stat. 643-645, 647; June 27, 1934, ch. 847, title V, §§506, 508(b), 48 Stat. 1263, 1264; May 28, 1935, ch. 150, §§10-17(a), 49 Stat. 296, 297; Aug. 11, 1939, ch. 684, 53 Stat. 1403; Oct. 24, 1942, ch. 621, 56 Stat. 986; June 30, 1947, ch. 166, title II, §206(f), 61 Stat. 206, related to creation of Home Owners' Loan Corporation, for appointment and compensation of its board of directors, for appointment and compensation of its employees, and for other powers, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 648.

A prior section 1463a, act Apr. 27, 1934, ch. 168, §1(b), 48 Stat. 644, provided that amendments made to subsec. (c) of former section 1463 of this title, except with respect to refunding, by act Apr. 27, 1934, should not apply to any bonds prior to Apr. 27, 1934, issued under subsec. (c), or to any bonds thereafter issued in compliance with commitments of the Corporation outstanding on Apr. 27, 1934.

A prior section 1463b, act Apr. 27, 1934, ch. 168, §9, 48 Stat. 646, related to purchase of obligations of, and loans to, Federal Home Loan Banks, prior to repeal by act May 28, 1935, ch. 150, §17(b), 49 Stat. 297.

AMENDMENTS

2014—Subsec. (e)(3)(B). Pub. L. 113-251, §3(d)(1), inserted “, other than a savings promotion raffle,” after “arrangement” in introductory provisions.

Subsec. (e)(3)(D). Pub. L. 113-251, §3(d)(2), added subpar. (D).

2010—Subsec. (a). Pub. L. 111-203, §369(4)(A)(i), struck out “Federal” before “savings” in heading.

Subsec. (a)(1), (2). Pub. L. 111-203, §369(4)(A)(ii), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) IN GENERAL.—The Director shall provide for the examination, safe and sound operation, and regulation of savings associations.

“(2) REGULATIONS.—The Director may issue such regulations as the Director determines to be appropriate to carry out the responsibilities of the Director or the Office.”

Subsec. (a)(3). Pub. L. 111-203, §369(4)(A)(iii), substituted “Comptroller and the Corporation” for “Director” in two places.

Subsec. (b). Pub. L. 111-203, §369(4)(B)(ii), substituted “Comptroller” for “Director” wherever appearing.

Subsec. (b)(2). Pub. L. 111-203, §369(4)(B)(i), inserted “and” at end of subpar. (A), substituted a period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “prior to January 1, 1994, require

full compliance by savings associations with accounting standards in effect at any time before such date not later than provided under the schedule in section 563.23-3 of title 12, Code of Federal Regulations (as in effect on May 1, 1989).”

Subsec. (c). Pub. L. 111-203, § 369(4)(C), substituted “The regulations of the Comptroller and the policies of the Comptroller and the Corporation” for “All regulations and policies of the Director” and struck out “of the Currency” before “for national”.

Subsec. (e)(5). Pub. L. 111-203, § 369(4)(D), substituted “Comptroller” for “Director”.

Subsecs. (f), (h). Pub. L. 111-203, § 369(4)(E), (F), substituted “appropriate Federal banking agency” for “Director” in two places.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS

Pub. L. 101-73, title III, § 308, Aug. 9, 1989, 103 Stat. 353, as amended by Pub. L. 111-203, title III, § 367(4), July 21, 2010, 124 Stat. 1556, provided that:

“(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Chairman of the National Credit Union Administration, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:

“(1) Preserving the present number of minority depository institutions.

“(2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:

“(A) Same type of minority depository institution in the same city.

“(B) Same type of minority depository institution in the same State.

“(C) Same type of minority depository institution nationwide.

“(D) Any type of minority depository institution in the same city.

“(E) Any type of minority depository institution in the same State.

“(F) Any type of minority depository institution nationwide.

“(G) Any other bidders.

“(3) Providing technical assistance to prevent insolvency of institutions not now insolvent.

“(4) Promoting and encouraging creation of new minority depository institutions.

“(5) Providing for training, technical assistance, and educational programs.

“(b) DEFINITIONS.—For purposes of this section—

“(1) MINORITY FINANCIAL INSTITUTION.—The term ‘minority depository institution’ means any depository institution that—

“(A) if a privately owned institution, 51 percent is owned by one or more socially and economically disadvantaged individuals;

“(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

“(C) in the case of a mutual institution where the majority of the Board of Directors, account holders, and the community which it services is predominantly minority.

“(2) MINORITY.—The term ‘minority’ means any black American, Native American, Hispanic American, or Asian American.

“(c) REPORTS.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the

Chairman of the National Credit Union Administration, and the Chairperson of Board of Directors of the Federal Deposit Insurance Corporation shall each submit an annual report to the Congress containing a description of actions taken to carry out this section.”

ABOLITION OF HOME OWNERS’ LOAN CORPORATION

Act June 30, 1953, ch. 170, § 21, 67 Stat. 126, provided for dissolution and abolition of Home Owners’ Loan Corporation established by former section 1463 of this title.

§ 1464. Federal savings associations

(a) In general

In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Comptroller of the Currency is authorized, under such regulations as the Comptroller of the Currency may prescribe—

(1) to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings associations (including Federal savings banks), and

(2) to issue charters therefor,

giving primary consideration of the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.

(b) Deposits and related powers

(1) Deposit accounts

(A) Subject to the terms of its charter and regulations of the Comptroller of the Currency, a Federal savings association may—

(i) raise funds through such deposit, share, or other accounts, including demand deposit accounts (hereafter in this section referred to as “accounts”); and

(ii) issue passbooks, certificates, or other evidence of accounts.

(B) A Federal savings association may not permit any overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such overdraft in such savings association’s account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of a Federal savings association shall, to such extent as may be provided by its charter or by regulations of the Comptroller of the Currency, be members of the savings association, and shall have such voting rights and such other rights as are thereby provided.

(C) A Federal savings association may require not less than 14 days notice prior to payment of savings accounts if the charter of the savings association or the regulations of the Comptroller of the Currency so provide.

(D) If a Federal savings association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice), the payment of withdrawals from accounts shall be subject to such rules