

(ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) Considerations

In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider—

(A) whether the interstate branch or branches of the out-of-State bank were formerly part of a failed or failing depository institution;

(B) whether the interstate branch was acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(C) whether the interstate branch or branches of the out-of-State bank have a higher concentration of commercial or credit card lending, trust services, or other specialized activities;

(D) the ratings received by the out-of-State bank under the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.];

(E) economic conditions, including the level of loan demand, within the communities served by the interstate branch or branches of the out-of-State bank; and

(F) the safe and sound operation and condition of the out-of-State bank.

(3) Branch closing procedure

(A) Notice required

Before exercising any authority under paragraph (1)(B)(i), the appropriate Federal banking agency shall issue to the bank a notice of the agency's intention to close an interstate branch or branches and shall schedule a hearing.

(B) Hearing

Section 1818(h) of this title shall apply to any proceeding brought under this paragraph.

(d) Application

This section shall apply with respect to any interstate branch established or acquired in a host State pursuant to this title¹ or any amendment made by this title¹ to any other provision of law.

(e) Definitions

For the purposes of this section, the following definitions shall apply:

(1) Appropriate Federal banking agency, bank, State, and State bank

The terms "appropriate Federal banking agency", "bank", "State", and "State bank" have the same meanings as in section 1813 of this title.

(2) Home State

The term "home State" means—

(A) in the case of a national bank, the State in which the main office of the bank is located; and

(B) in the case of a State bank, the State by which the bank is chartered.

(3) Host State

The term "host State" means a State in which a bank establishes a branch other than the home State of the bank.

(4) Interstate branch

The term "interstate branch" means a branch established pursuant to this title¹ or any amendment made by this title¹ to any other provision of law and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 1841(o)(7) of this title).

(5) Out-of-State bank

The term "out-of-State bank" means, with respect to any State, a bank the home State of which is another State and, for purposes of this section, includes a foreign bank, the home State of which is another State.

(Pub. L. 103-328, title I, § 109, Sept. 29, 1994, 108 Stat. 2362; Pub. L. 106-102, title I, § 106, Nov. 12, 1999, 113 Stat. 1359.)

REFERENCES IN TEXT

This title, referred to in subsecs. (a), (d), and (e)(4), is title I of Pub. L. 103-328, Sept. 29, 1994, 108 Stat. 2339, which enacted this section and sections 43, 215a-1, and 1831u of this title, amended sections 30, 36, 215, 215a, 215b, 1462a, 1820, 1828, 1831a, 1831r-1, 1841, 1842, 1846, 2906, 3103 to 3105, and 3106a of this title and section 1927 of Title 7, Agriculture, enacted provisions set out as notes under sections 215, 1811, 1828, 3104, 3105, and 3107 of this title and section 1927 of Title 7, and amended provisions set out as a note under section 1811 of this title. For complete classification of this title to the Code, see Tables.

The Community Reinvestment Act of 1977, referred to in subsec. (c)(2)(D), is title VIII of Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1147, as amended, which is classified generally to chapter 30 (§ 2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

AMENDMENTS

1999—Subsec. (e)(4). Pub. L. 106-102 inserted before period at end "and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 1841(o)(7) of this title)".

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-102 effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106-102, set out as a note under section 24 of this title.

CHAPTER 17—BANK HOLDING COMPANIES

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§ 1841. Definitions

(a)(1) Except as provided in paragraph (5) of this subsection, “bank holding company” means any company which has control over any bank or over any company that is or becomes a bank holding company by virtue of this chapter.

(2) Any company has control over a bank or over any company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the Board determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.

(3) For the purposes of any proceeding under paragraph (2)(C) of this subsection, there is a presumption that any company which directly or indirectly owns, controls, or has power to vote less than 5 per centum of any class of voting securities of a given bank or company does not have control over that bank or company.

(4) In any administrative or judicial proceeding under this chapter, other than a proceeding under paragraph (2)(C) of this subsection, a company may not be held to have had control over any given bank or company at any given time unless that company, at the time in question, directly or indirectly owned, controlled, or had power to vote 5 per centum or more of any class of voting securities of the bank or company, or had already been found to have control in a proceeding under paragraph (2)(C).

(5) Notwithstanding any other provision of this subsection—

(A) No bank and no company owning or controlling voting shares of a bank is a bank holding company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraphs (2) and (3) of subsection (g) of this section. For the purpose of the preceding sentence, bank shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto; except that this limitation is applicable in the case of a bank or company acquiring such shares prior to December 31, 1970, only if the bank or company has the right consistent with its obligations under the instrument, agreement, or other arrangement establishing the fiduciary

relationship to divest itself of such voting rights and fails to exercise that right to divest within a reasonable period not to exceed one year after December 31, 1970.

(B) No company is a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis.

(C) No company formed for the sole purpose of participating in a proxy solicitation is a bank holding company by virtue of its control of voting rights of shares acquired in the course of such solicitation.

(D) No company is a bank holding company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition. The Board is authorized upon application by a company to extend, from time to time for not more than one year at a time, the two-year period referred to herein for disposing of any shares acquired by a company in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board’s judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years.

(E) No company is a bank holding company by virtue of its ownership or control of any State-chartered bank or trust company which—

(i) is wholly owned by 1 or more thrift institutions or savings banks; and

(ii) is restricted to accepting—

(I) deposits from thrift institutions or savings banks;

(II) deposits arising out of the corporate business of the thrift institutions or savings banks that own the bank or trust company; or

(III) deposits of public moneys.

(F) No trust company or mutual savings bank which is an insured bank under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] is a bank holding company by virtue of its direct or indirect ownership or control of one bank located in the same State, if (i) such ownership or control existed on December 31, 1970, and is specifically authorized by applicable State law, and (ii) the trust company or mutual savings bank does not after that date acquire an interest in any company that, together with any other interest it holds in that company, will exceed 5 per centum of any class of the voting shares of that company, except that this limitation shall not be applicable to investments of the trust company or mutual savings bank, direct and indirect, which are otherwise in accordance with the limitations applicable to national banks under section 24 of this title.

(6) For the purposes of this chapter, any successor to a bank holding company shall be deemed to be a bank holding company from the date on which the predecessor company became a bank holding company.