

thorized under this chapter to any depository institution that does not own stock in or is not a member of the service company on the basis of the fact that such depository institution is in competition with an institution that owns stock in or is a member of the bank service company, except that—

(1) it shall not be considered unreasonable discrimination for a bank service company to provide services to a nonstockholding or nonmember institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and a reasonable return thereon; and

(2) a bank service company may refuse to provide services to a nonstockholding or nonmember institution if comparable services are available from another source at competitive overall costs, or if the providing of services would be beyond the practical capacity of the service company.

(Pub. L. 87-856, § 6, Oct. 23, 1962, as added Pub. L. 97-320, title VII, § 709, Oct. 15, 1982, 96 Stat. 1543; amended Pub. L. 104-208, div. A, title II, § 2613(g), Sept. 30, 1996, 110 Stat. 3009-478.)

#### AMENDMENTS

1996—Pub. L. 104-208, § 2613(g)(1)-(4), (6), in section catchline, inserted “or nonmembers” after “nonstockholders”, and in introductory provisions of text, substituted “company” for “corporation” wherever appearing and “such depository institution” for “the nonstockholding institution” and inserted “or is not a member of” after “does not own stock in” and “or is a member of” after “that owns stock in”.

Pars. (1), (2). Pub. L. 104-208, § 2613(g)(1), (5), substituted “company” for “corporation” wherever appearing and inserted “or nonmember” after “nonstockholding”.

### § 1867. Regulation and examination of bank service companies

#### (a) Principal investor

A bank service company shall be subject to examination and regulation by the appropriate Federal banking agency of its principal investor to the same extent as its principal investor. The appropriate Federal banking agency of the principal shareholder or principal member of such a bank service company may authorize any other Federal banking agency that supervises any other shareholder or member of the bank service company to make such an examination.

#### (b) Applicability of section 1818 of this title

A bank service company shall be subject to the provisions of section 1818 of this title as if the bank service company were an insured depository institution. For this purpose, the appropriate Federal banking agency shall be the appropriate Federal banking agency of the principal investor of the bank service company.

#### (c) Services performed by contract or otherwise

Notwithstanding subsection (a) of this section, whenever a depository institution that is regularly examined by an appropriate Federal banking agency, or any subsidiary or affiliate of such a depository institution that is subject to examination by that agency, causes to be performed for itself, by contract or otherwise, any services authorized under this chapter, whether on or off its premises—

(1) such performance shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the depository institution itself on its own premises, and

(2) the depository institution shall notify each such agency of the existence of the service relationship within thirty days after the making of such service contract or the performance of the service, whichever occurs first.

#### (d) Issuance of regulations and orders

The Board and the appropriate Federal banking agencies are authorized to issue such regulations and orders as may be necessary to enable them to administer and to carry out the purposes of this chapter and to prevent evasions thereof.

(Pub. L. 87-856, § 7, Oct. 23, 1962, as added Pub. L. 97-320, title VII, § 709, Oct. 15, 1982, 96 Stat. 1543; amended Pub. L. 97-457, § 32(b)(1), Jan. 12, 1983, 96 Stat. 2511; Pub. L. 104-208, div. A, title II, § 2613(h), Sept. 30, 1996, 110 Stat. 3009-478; Pub. L. 109-351, title VI, § 602(b)(5), Oct. 13, 2006, 120 Stat. 1980; Pub. L. 111-203, title III, § 357(3), July 21, 2010, 124 Stat. 1548.)

#### AMENDMENTS

2010—Subsec. (c)(2). Pub. L. 111-203 inserted “each” after “notify”.

2006—Subsec. (b). Pub. L. 109-351, § 602(b)(5)(A), substituted “insured depository institution” for “insured bank”.

Subsec. (c). Pub. L. 109-351, § 602(b)(5)(B), substituted “a depository institution” for “a bank” in two places in introductory provisions and “the depository institution” for “the bank” in pars. (1) and (2).

1996—Pub. L. 104-208, § 2613(h)(3), substituted “companies” for “corporations” in section catchline.

Subsec. (a). Pub. L. 104-208, § 2613(h)(1), (2), substituted “company” for “corporation” wherever appearing and inserted “or principal member” after “principal shareholder” and “or member” after “other shareholder”.

Subsec. (b). Pub. L. 104-208, § 2613(h)(1), substituted “company” for “corporation” wherever appearing.

1983—Subsec. (b). Pub. L. 97-457 substituted reference to section 1818 of this title for reference to the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.).

#### 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.

### CHAPTER 19—SECURITY MEASURES FOR BANKS AND SAVINGS ASSOCIATIONS

Sec.

- 1881. “Federal supervisory agency” defined.
- 1882. Security measures.
- 1883. Insurance rates; report to Congress.
- 1884. Penalties for violations.

#### § 1881. “Federal supervisory agency” defined

As used in this chapter the term “Federal supervisory agency” means the appropriate Federal banking agency, as defined in section 1813(q) of this title.

(Pub. L. 90-389, § 2, July 7, 1968, 82 Stat. 294; Pub. L. 101-73, title VII, § 744(h), Aug. 9, 1989, 103 Stat. 439; Pub. L. 108-386, § 8(d), Oct. 30, 2004, 118 Stat.