

rectly and are conducted subject to the same terms and conditions that govern the conduct of such activities by national banks; or

(B) a national bank is specifically authorized by the express terms of a Federal statute (other than this section), and not by implication or interpretation, to control, such as by section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.] or the Bank Service Company Act [12 U.S.C. 1861 et seq.].

(4) Eligible debt

The term “eligible debt” means unsecured long-term debt that—

(A) is not supported by any form of credit enhancement, including a guarantee or standby letter of credit; and

(B) is not held in whole or in any significant part by any affiliate, officer, director, principal shareholder, or employee of the bank or any other person acting on behalf of or with funds from the bank or an affiliate of the bank.

(5) Well capitalized

The term “well capitalized” has the meaning given the term in section 1831o of this title.

(6) Well managed

The term “well managed” means—

(A) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

(i) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

(ii) at least a rating of 2 for management, if such rating is given; or

(B) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

(R.S. §5136A, as added Pub. L. 106–102, title I, §121(a)(2), Nov. 12, 1999, 113 Stat. 1373; amended Pub. L. 111–203, title IX, §939(d), July 21, 2010, 124 Stat. 1886.)

REFERENCES IN TEXT

The Gramm-Leach-Bliley Act, referred to in subsecs. (a)(2)(B)(iii), (b)(2)(A), (3), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338. Section 122 of the Act is set out as a note under section 1843 of this title. 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.

Section 25 of the Federal Reserve Act, referred to in subsec. (g)(3)(B), is classified to subchapter I (§601 et seq.) of chapter 6 of this title. Section 25A of the Federal Reserve Act is classified to subchapter II (§611 et seq.) of chapter 6 of this title.

The Bank Service Company Act, referred to in subsec. (g)(3)(B), is Pub. L. 87–856, Oct. 23, 1962, 76 Stat. 1132, as amended, which is classified generally to chapter 18 (§1861 et seq.) of this title. For complete classification of this Act to the Code, see section 1861 of this title and Tables.

PRIOR PROVISIONS

A prior section 5136A of the Revised Statutes was renumbered section 5136B by Pub. L. 106–102 and is classified to section 25a of this title.

AMENDMENTS

2010—Subsec. (a)(2)(E). Pub. L. 111–203, §939(d)(1), substituted “standards of credit-worthiness established by the Comptroller of the Currency” for “any applicable rating”.

Subsec. (a)(3). Pub. L. 111–203, §939(d)(2), substituted “Requirement” for “Rating or comparable requirement” in heading.

Subsec. (a)(3)(A). Pub. L. 111–203, §939(d)(3), amended subpar. (A) generally. Prior to amendment, text read as follows: “A national bank meets the requirements of this paragraph if—

“(i) the bank is 1 of the 50 largest insured banks and has not fewer than 1 issue of outstanding eligible debt that is currently rated within the 3 highest investment grade rating categories by a nationally recognized statistical rating organization; or

“(ii) the bank is 1 of the second 50 largest insured banks and meets the criteria set forth in clause (i) or such other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish by regulation and determine to be comparable to and consistent with the purposes of the rating required in clause (i).”

Subsec. (f). Pub. L. 111–203, §939(d)(4), substituted “meet standards of credit-worthiness” for “maintain public rating or” in heading.

Subsec. (f)(1). Pub. L. 111–203, §939(d)(5), substituted “standards of credit-worthiness established by the Comptroller of the Currency” for “any applicable rating”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title IX, §939(g), July 21, 2010, 124 Stat. 1887, provided that: “The amendments made by this section [amending this section, sections 1817, 1831e, and 4519 of this title, sections 78c and 80a–6 of Title 15, Commerce and Trade, and section 286hh of Title 22, Foreign Relations and Intercourse] shall take effect 2 years after the date of enactment of this Act [July 21, 2010].”

EFFECTIVE DATE

Section effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106–102, set out as an Effective Date of 1999 Amendment note under section 24 of this title.

§ 25. Omitted

CODIFICATION

Section, act July 1, 1922, ch. 257, §2, 42 Stat. 767, repealed all acts extending the period of succession of national banking associations for 20 years, and made paragraph Second of section 24 applicable in that respect.

§ 25a. Participation by national banks in lotteries and related activities

(a) Prohibited activities

A national bank may not—

(1) deal in lottery tickets;

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

(3) announce, advertise, or publicize the existence of any lottery;¹

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

(b) Use of banking premises prohibited

A national bank may not permit—

¹ So in original. The word “or” probably should appear.

(1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a), or

(2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a).

(c) Definitions

As used in this section—

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

(2) The term “lottery” includes any arrangement, other than a savings promotion raffle, whereby three or more persons (the “participants”) advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the “winners”) will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection;

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

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) 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.

(4) 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).

(d) Lawful banking services connected with operation of lotteries

Nothing contained in this section prohibits a national bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Comptroller of the Currency shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(R.S. §5136B, formerly §5136A, as added Pub. L. 90-203, §1(a), Dec. 15, 1967, 81 Stat. 608; renumbered R.S. §5136B, Pub. L. 106-102, title I, §121(a)(1), Nov. 12, 1999, 113 Stat. 1373; amended Pub. L. 113-251, §3(a), Dec. 18, 2014, 128 Stat. 2889.)

AMENDMENTS

2014—Subsec. (c)(2). Pub. L. 113-251, §3(a)(1), inserted “, other than a savings promotion raffle,” before “whereby” in introductory provisions.

Subsec. (c)(4). Pub. L. 113-251, §3(a)(2), added par. (4).

EFFECTIVE DATE

Pub. L. 90-203, §6, Dec. 15, 1967, 81 Stat. 611, provided that: “The amendments made by this Act [adding this section, sections 339, 1730c, and 1829a of this title, and section 1306 of Title 18, Crimes and Criminal Procedure] shall take effect on April 1, 1968.”

FINDINGS

Pub. L. 113-251, §2, Dec. 18, 2014, 128 Stat. 2888, provided that: “Congress finds that—

“(1) the annual savings rate in the United States was 4.1 percent in 2012;

“(2) more than 40 percent of American households lack the savings to cover basic expenses for 3 months, if an unexpected event leads to a loss of stable income;

“(3) personal savings provide Americans with the financial resources to meet future needs, including higher education and homeownership, while also providing a safety net to weather unexpected financial shocks;

“(4) prize-linked savings products are typical savings products offered by financial institutions, like savings accounts, certificates of deposit, and savings bonds, with the added feature of offering chances to win prizes based on deposit activity;

“(5) the State of Michigan was the first State to allow credit unions to offer prize-linked savings products, and in 2009 launched the first large-scale prize-linked savings product in the United States;

“(6) the States of Connecticut, Michigan, Maine, Maryland, Nebraska, North Carolina, Rhode Island, and Washington all have laws that allow financial institutions to offer prize-linked savings products;

“(7) in the States of Michigan and Nebraska, more than 42,000 individuals have opened prize-linked savings accounts and saved more than \$72,000,000;

“(8) prize-linked savings products have been shown to successfully attract non-savers, the asset poor, and low-to-moderate income groups, providing individuals with a new tool to build personal savings; and

“(9) encouraging personal savings is in the national interest of the United States.”

§ 25b. State law preemption standards for national banks and subsidiaries clarified

(a) Definitions

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

(1) National bank

The term “national bank” includes—

(A) any bank organized under the laws of the United States; and

(B) any Federal branch established in accordance with the International Banking Act of 1978 [12 U.S.C. 3101 et seq.].

(2) State consumer financial laws

The term “State consumer financial law” means a State law that does not directly or indirectly discriminate against national banks and that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction (as may be authorized for national banks to engage in), or any account related thereto, with respect to a consumer.

(3) Other definitions

The terms “affiliate”, “subsidiary”, “includes”, and “including” have the same meanings as in section 1813 of this title.