

Federal Housing Finance Agency shall issue regulations to carry out section 1364(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4614(b)] (as added by this section), relating to capital classifications for the Federal Home Loan Banks.”

§ 4615. Supervisory actions applicable to undercapitalized regulated entities

(a) Mandatory actions

(1) Required monitoring

The Director shall—

(A) closely monitor the condition of any undercapitalized regulated entity;

(B) closely monitor compliance with the capital restoration plan, restrictions, and requirements imposed on an undercapitalized regulated entity under this section; and

(C) periodically review the plan, restrictions, and requirements applicable to an undercapitalized regulated entity to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.

(2) Capital restoration plan

A regulated entity that is classified as undercapitalized shall, within the time period provided in section 4622(b) and (d) of this title, submit to the Director a capital restoration plan that complies with section 4622 of this title and carry out the plan after approval.

(3) Restriction on capital distributions

A regulated entity that is classified as undercapitalized may not make any capital distribution that would result in the regulated entity being reclassified as significantly undercapitalized or critically undercapitalized.

(4) Restriction of asset growth

An undercapitalized regulated entity shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, unless—

(A) the Director has accepted the capital restoration plan of the regulated entity;

(B) any increase in total assets is consistent with the capital restoration plan; and

(C) the ratio of tangible equity to assets of the regulated entity increases during the calendar quarter at a rate sufficient to enable the regulated entity to become adequately capitalized within a reasonable time.

(5) Prior approval of acquisitions and new activities

An undercapitalized regulated entity shall not, directly or indirectly, acquire any interest in any entity or engage in any new activity, unless—

(A) the Director has accepted the capital restoration plan of the regulated entity, the regulated entity is implementing the plan, and the Director determines that the proposed action is consistent with and will further the achievement of the plan; or

(B) the Director determines that the proposed action will further the purpose of this subchapter.

(b) Reclassification from undercapitalized to significantly undercapitalized

The Director shall reclassify as significantly undercapitalized a regulated entity that is classified as undercapitalized (and the regulated entity shall be subject to the provisions of section 4616 of this title) if—

(1) the regulated entity does not submit a capital restoration plan that is substantially in compliance with section 4622 of this title within the applicable period or the Director does not approve the capital restoration plan submitted by the regulated entity; or

(2) the Director determines that the regulated entity has failed to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director in any material respect.

(c) Other discretionary safeguards

The Director may take, with respect to an undercapitalized regulated entity, any of the actions authorized to be taken under section 4616 of this title with respect to a significantly undercapitalized regulated entity, if the Director determines that such actions are necessary to carry out the purpose of this subchapter.

(Pub. L. 102-550, title XIII, §1365, Oct. 28, 1992, 106 Stat. 3978; Pub. L. 110-289, div. A, title I, §1143, July 30, 2008, 122 Stat. 2732.)

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-289, §1143(4)(B), added par. (1). Former par. (1) redesignated (2).

Pub. L. 110-289, §1143(2), substituted “A regulated entity” for “An enterprise”.

Subsec. (a)(2). Pub. L. 110-289, §1143(4)(A), redesignated par. (1) as (2). Former par. (2) redesignated (3).

Pub. L. 110-289, §1143(1), (2), substituted “the regulated entity” for “the enterprise” and “A regulated entity” for “An enterprise”.

Subsec. (a)(3). Pub. L. 110-289, §1143(4)(A), redesignated par. (2) as (3).

Subsec. (a)(4), (5). Pub. L. 110-289, §1143(4)(C), added pars. (4) and (5).

Subsec. (b). Pub. L. 110-289, §1143(5)(A), (B), substituted “Reclassification” for “Discretionary reclassification” in heading and “shall” for “may” in introductory provisions.

Pub. L. 110-289, §1143(1), (3), substituted “a regulated entity” for “an enterprise” and “the regulated entity” for “the enterprise” in introductory provisions.

Subsec. (b)(1). Pub. L. 110-289, §1143(1), substituted “the regulated entity” for “the enterprise” in two places.

Subsec. (b)(2). Pub. L. 110-289, §1143(5)(C), struck out “make, in good faith, reasonable efforts necessary to” before “comply with” and inserted “in any material respect” before period at end.

Pub. L. 110-289, §1143(1), substituted “the regulated entity” for “the enterprise”.

Subsec. (c). Pub. L. 110-289, §1143(6), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “This section shall take effect upon the expiration of the 1-year period beginning on the date of the effectiveness of the regulations issued under section 4611(e) of this title establishing the risk-based capital test.”

§ 4616. Supervisory actions applicable to significantly undercapitalized regulated entities

(a) Mandatory supervisory actions

(1) Capital restoration plan

A regulated entity that is classified as significantly undercapitalized shall, within the