(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 title[1] or any amendment made by this title[1] 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 title[1] or any amendment made by this title[1] 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

Sec.
1841. Definitions.
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1846. Reservation of rights to States.
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1850a. Securities holding companies.
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1852. Concentration limits on large financial firms.

§ 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.

(b) ''Company'' means any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust but shall not include any corporation the majority of the shares of which are owned by the United States or by any State, and shall not include a qualified family partnership. ''Company covered in 1970'' means a company which becomes a bank holding company as a result of the enactment of the Bank Holding Company Act Amendments of 1970 and which would have been a bank holding company on June 30, 1968, if those amendments had been enacted on that date.

(c) BANK DEFINED.—For purposes of this chapter—

(1) IN GENERAL.—Except as provided in paragraph (2), the term ''bank'' means any of the following:

(A) An insured bank as defined in section 3(h) of the Federal Deposit Insurance Act [12 U.S.C. 1813(h)].

(B) An institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands which both—

(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others; and

(ii) is engaged in the business of making commercial loans.

(2) EXCEPTIONS.—The term ''bank'' does not include any of the following:

(A) A foreign bank which would be a bank within the meaning of paragraph (1) solely because such bank has an insured or uninsured branch in the United States.

(B) An insured institution (as defined in subsection (j)).

(C) An organization that does not do business in the United States except as an incident to its activities outside the United States.

(D) An institution that functions solely in a trust or fiduciary capacity, if—

(i) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

(ii) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

(iii) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

(iv) such institution does not—

(I) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11A of the Federal Reserve Act [12 U.S.C. 248a]; or

(II) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act [12 U.S.C. 461(b)(7)].

(E) A credit union (as described in section 19(b)(1)(A)(iv) of the Federal Reserve Act [12 U.S.C. 461(b)(1)(A)(iv)]).

(F) An institution, including an institution that accepts collateral for extensions of credit by holding deposits under $100,000, and by other means which—

(i) engages only in credit card operations;

(ii) does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;

(iii) does not accept any savings or time deposit of less than $100,000;

(iv) maintains only one office that accepts deposits; and

(v) does not engage in the business of making commercial loans, other than credit card loans that are made to businesses that meet the criteria for a small business concern to be eligible for business loans under regulations established by the Small Business Administration under part 121 of title 13, Code of Federal Regulations.

(G) An organization operating under section 25 or section 25(a)[1] of the Federal Reserve Act.

(H) An industrial loan company, industrial bank, or other similar institution which is—

(i) an institution organized under the laws of a State which, on March 5, 1987, had in effect or had under consideration in such State's legislature a statute which required or would require such institution to obtain insurance under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]—

(I) which does not accept demand deposits that the depositor may withdraw by check or similar means for payment to third parties;

(II) which has total assets of less than $100,000,000; or

(III) the control of which is not acquired by any company after August 10, 1987; or

(ii) an institution which does not, directly, indirectly, or through an affiliate, engage in any activity in which it was not lawfully engaged as of March 5, 1987,

except that this subparagraph shall cease to apply to any institution which permits any overdraft (including any intraday overdraft), or which incurs any such overdraft in such institution's account at a Federal Reserve bank, on behalf of an affiliate if such overdraft is not the result of an inadvertent computer or accounting error that is beyond the control of both the institution and the affiliate, or that is otherwise permissible for a bank controlled by a company described in section 1843(f)(1) of this title.

(d) ''Subsidiary'', with respect to a specified bank holding company, means (1) any company 25 per centum or more of whose voting shares (excluding shares owned by the United States or by any company wholly owned by the United States) is directly or indirectly owned or controlled by such bank holding company, or is held by it with power to vote; (2) any company the election of a majority of whose directors is controlled in any manner by such bank holding company; or (3) any company with respect to the management of policies of which such bank holding company has the power, directly or indirectly, to exercise a controlling influence, as determined by the Board, after notice and opportunity for hearing.

(e) The term ''successor'' shall include any company which acquires directly or indirectly

[1] See References in Text note below.

from a bank holding company shares of any bank, when and if the relationship between such company and the bank holding company is such that the transaction effects no substantial change in the control of the bank or beneficial ownership of such shares of such bank. The Board may, by regulation, further define the term ''successor'' to the extent necessary to prevent evasion of the purposes of this chapter.

(f) ''Board'' means the Board of Governors of the Federal Reserve System.

(g) For the purposes of this chapter—

(1) shares owned or controlled by any subsidiary of a bank holding company shall be deemed to be indirectly owned or controlled by such bank holding company; and

(2) shares held or controlled directly or indirectly by trustees for the benefit of (A) a company, (B) the shareholders or members of a company, or (C) the employees (whether exclusively or not) of a company, shall be deemed to be controlled by such company, unless the Board determines that such treatment is not appropriate in light of the facts and circumstances of the case and the purposes of this chapter.

(h)(1) Except as provided by paragraph (2), the application of this chapter and of section 371c of this title shall not be affected by the fact that a transaction takes place wholly or partly outside the United States or that a company is organized or operates outside the United States.

(2) Except as provided in paragraph (3), the prohibitions of section 1843 of this title shall not apply to shares of any company organized under the laws of a foreign country (or to shares held by such company in any company engaged in the same general line of business as the investor company or in a business related to the business of the investor company) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States. For the purpose of this subsection, the term ''section 2(h)(2) company'' means any company whose shares are held pursuant to this paragraph.

(3) Nothing in paragraph (2) authorizes a section 2(h)(2) company to engage in (or acquire or hold more than 5 percent of the outstanding shares of any class of voting securities of a company engaged in) any banking, securities, insurance, or other financial activities, as defined by the Board, in the United States. This paragraph does not prohibit a section 2(h)(2) company from holding shares that were lawfully acquired before August 10, 1987.

(4) No domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of a section 2(h)(2) company may extend credit to a domestic office or subsidiary of such section 2(h)(2) company on terms more favorable than those afforded similar borrowers in the United States.

(5) No domestic banking office or bank subsidiary of a bank holding company that controls a section 2(h)(2) company may offer or market products or services of such section 2(h)(2) company, or permit its products or services to be offered or marketed by or through such section 2(h)(2) company, unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date.

(i) THRIFT INSTITUTION.—For purposes of this chapter, the term ''thrift institution'' means—

(1) any domestic building and loan or savings and loan association;

(2) any cooperative bank without capital stock organized and operated for mutual purposes and without profit;

(3) any Federal savings bank; and

(4) any State-chartered savings bank the holding company of which is registered pursuant to section 1730a[1] of this title.

(j) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERM.—The term ''savings association'' or ''insured institution'' means—

(1) any Federal savings association or Federal savings bank;

(2) any building and loan association, savings and loan association, homestead association, or cooperative bank if such association or cooperative bank is a member of the Deposit Insurance Fund; and

(3) any savings bank or cooperative bank which is deemed by the appropriate Federal banking agency to be a savings association under section 1467a(*l*) of this title.

(k) AFFILIATE.—For purposes of this chapter, the term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(*l*) SAVINGS BANK HOLDING COMPANY.—For purposes of this chapter, the term ''savings bank holding company'' means any company which controls one or more qualified savings banks if the aggregate total assets of such savings banks constitute, upon formation of the holding company and at all times thereafter, at least 70 percent of the total assets of such company.

(m) [Repealed]

(n) INCORPORATED DEFINITIONS.—For purposes of this chapter, the terms ''depository institution'', ''insured depository institution'', ''appropriate Federal banking agency'', ''default'', ''in danger of default'', and ''State bank supervisor'' have the same meanings as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(*o*) OTHER DEFINITIONS.—For purposes of this chapter, the following definitions shall apply:

(1) CAPITAL TERMS.—

(A) INSURED DEPOSITORY INSTITUTIONS.—With respect to insured depository institutions, the terms ''well capitalized'', ''adequately capitalized'', and ''undercapitalized'' have the same meanings as in section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*].

(B) BANK HOLDING COMPANY.—

(i) ADEQUATELY CAPITALIZED.—With respect to a bank holding company, the term ''adequately capitalized'' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

(ii) WELL CAPITALIZED.—A bank holding company is ''well capitalized'' if it meets

the required capital levels for well capitalized bank holding companies established by the Board.

(C) OTHER CAPITAL TERMS.—The terms ''Tier 1'' and ''risk-weighted assets'' have the meanings given those terms in the capital guidelines or regulations established by the Board for bank holding companies.

(2) ANTITRUST LAWS.—Except as provided in section 1849 of this title, the term ''antitrust laws''—

(A) has the same meaning as in subsection (a) of section 12 of title 15; and

(B) includes section 45 of title 15 to the extent that such section 45 relates to unfair methods of competition.

(3) BRANCH.—The term ''branch'' means a domestic branch (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]).

(4) HOME STATE.—The term ''home State'' means—

(A) with respect to a national bank, the State in which the main office of the bank is located;

(B) with respect to a State bank, the State by which the bank is chartered;

(C) with respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of—

(i) July 1, 1966; or

(ii) the date on which the company becomes a bank holding company under this chapter;

(D) with respect to a State savings association, the State by which the savings association is chartered; and

(E) with respect to a Federal savings association, the State in which the home office (as defined by the regulations of the Director of the Office of Thrift Supervision, or, on and after the transfer date,[1] the Comptroller of the Currency) of the Federal savings association is located.

(5) HOST STATE.—The term ''host State'' means—

(A) with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch; and

(B) with respect to a bank holding company, a State, other than the home State of the company, in which the company controls, or seeks to control, a bank subsidiary.

(6) OUT-OF-STATE BANK.—The term ''out-of-State bank'' means, with respect to any State, a bank whose home State is another State.

(7) OUT-OF-STATE BANK HOLDING COMPANY.—The term ''out-of-State bank holding company'' means, with respect to any State, a bank holding company whose home State is another State.

(8) LEAD INSURED DEPOSITORY INSTITUTIONS.—

(A) IN GENERAL.—The term ''lead insured depository institution'' means the largest insured depository institution controlled by the subject bank holding company at any time, based on a comparison of the average total risk-weighted assets controlled by each insured depository institution during the previous 12-month period.

(B) BRANCH OR AGENCY.—For purposes of this paragraph and section 1843(j)(4) of this title, the term ''insured depository institution'' includes any branch or agency operated in the United States by a foreign bank.

(9) WELL MANAGED.—The term ''well managed'' means—

(A) in the case of any company or depository institution which receives examinations, the achievement of—

(i) a CAMEL composite rating of 1 or 2 (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of such company or institution; and

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

(B) in the case of a company or depository institution that has not received an examination rating, the existence and use of managerial resources which the Board determines are satisfactory.

(10) QUALIFIED FAMILY PARTNERSHIP.—The term ''qualified family partnership'' means a general or limited partnership that the Board determines—

(A) does not directly control any bank, except through a registered bank holding company;

(B) does not control more than 1 registered bank holding company;

(C) does not engage in any business activity, except indirectly through ownership of other business entities;

(D) has no investments other than those permitted for a bank holding company pursuant to section 1843(c) of this title;

(E) is not obligated on any debt, either directly or as a guarantor;

(F) has partners, all of whom are either—

(i) individuals related to each other by blood, marriage (including former marriage), or adoption; or

(ii) trusts for the primary benefit of individuals related as described in clause (i); and

(G) has filed with the Board a statement that includes—

(i) the basis for the eligibility of the partnership under subparagraph (F);

(ii) a list of the existing activities and investments of the partnership;

(iii) a commitment to comply with this paragraph;

(iv) a commitment to comply with section 7 of the Federal Deposit Insurance Act [12 U.S.C. 1817] with respect to any acquisition of control of an insured depository institution occurring after September 30, 1996; and

(v) a commitment to be subject, to the same extent as if the qualified family partnership were a bank holding company—

(I) to examination by the Board to assure compliance with this paragraph; and

(II) to section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818].

(p) FINANCIAL HOLDING COMPANY.—For purposes of this chapter, the term ''financial holding company'' means a bank holding company that meets the requirements of section 1843(*l*)(1) of this title.

(q) INSURANCE COMPANY.—For purposes of sections 1843 and 1844 of this title, the term ''insurance company'' includes any person engaged in the business of insurance to the extent of such activities.

(May 9, 1956, ch. 240, § 2, 70 Stat. 133; Pub. L. 89–485, §§ 1–6, July 1, 1966, 80 Stat. 236, 237; Pub. L. 91–607, title I, § 101, Dec. 31, 1970, 84 Stat. 1760; Pub. L. 95–188, title III, § 301(b), Nov. 16, 1977, 91 Stat. 1389; Pub. L. 95–369, § 8(e), Sept. 17, 1978, 92 Stat. 623; Pub. L. 97–320, title I, § 118(b), title III, § 333, title IV, § 404(d)(1), Oct. 15, 1982, 96 Stat. 1479, 1504, 1512; Pub. L. 100–86, title I, § 101(a), (e), title II, § 205(a), Aug. 10, 1987, 101 Stat. 554, 562, 584; Pub. L. 101–73, title VI, § 602(a), Aug. 9, 1989, 103 Stat. 409; Pub. L. 103–328, title I, § 101(c), Sept. 29, 1994, 108 Stat. 2341; Pub. L. 104–208, div. A, title II, §§ 2207, 2208(b), 2304(b), 2610, 2704(d)(17), Sept. 30, 1996, 110 Stat. 3009–406, 3009–408, 3009–425, 3009–475, 3009–495; Pub. L. 106–102, title I, §§ 103(c)(1), 107(c), 119, title VII, § 724, Nov. 12, 1999, 113 Stat. 1351, 1359, 1373, 1471; Pub. L. 108–386, § 8(c)(1), Oct. 30, 2004, 118 Stat. 2231; Pub. L. 109–171, title II, § 2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, § 9(h)(1), Feb. 15, 2006, 119 Stat. 3618; Pub. L. 109–351, title VII, §§ 706, 727(a), Oct. 13, 2006, 120 Stat. 1987, 2003; Pub. L. 111–203, title III, § 354(1), title VI, §§ 623(b)(2), 628, July 21, 2010, 124 Stat. 1546, 1635, 1640.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (4), (c), and (g) to (p), was in the original ''this Act'', meaning act May 9, 1956, ch. 240, 70 Stat. 133, known as the Bank Holding Company Act of 1956, which enacted this chapter and sections 1101 to 1103 of Title 26, Internal Revenue Code, and enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Federal Deposit Insurance Act, referred to in subsecs. (a)(5)(F) and (c)(2)(H)(i), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

Enactment of the Bank Holding Company Act Amendments of 1970, referred to in subsec. (b), means enactment of Pub. L. 91–607, on Dec. 31, 1970. For classification of Pub. L. 91–607, see Short Title of 1970 Amendment note below.

Section 25 of the Federal Reserve Act, referred to in subsec. (c)(2)(G), is classified to subchapter I (§ 601 et seq.) of chapter 6 of this title. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of this title, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

Sections 1727 and 1730a of this title, referred to in subsec. (i)(4), were repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

A section 2(h)(2) company, referred to in subsec. (h)(3) to (5), is defined in subsec. (h)(2) of this section.

The transfer date, referred to in subsec. (*o*)(4)(E), probably means the transfer date defined in section 5301 of this title.

AMENDMENTS

2010—Subsec. (c)(2)(F)(v). Pub. L. 111–203, § 628, inserted '', other than credit card loans that are made to businesses that meet the criteria for a small business concern to be eligible for business loans under regulations established by the Small Business Administration under part 121 of title 13, Code of Federal Regulations'' before the period.

Subsec. (j)(3). Pub. L. 111–203, § 354(1), substituted ''appropriate Federal banking agency'' for ''Director of the Office of Thrift Supervision''.

Subsec. (*o*)(4)(D), (E). Pub. L. 111–203, § 623(b)(2), added subpars. (D) and (E).

2006—Subsec. (c)(2)(I), (J). Pub. L. 109–351, § 727(a)(1), struck out subpars. (I) and (J), which related to the Investors Fiduciary Trust Company, located in Kansas City, Missouri, and certain savings banks as defined by section 1831(g) of this title, respectively.

Subsec. (g)(2). Pub. L. 109–351, § 706, inserted before period at end '', unless the Board determines that such treatment is not appropriate in light of the facts and circumstances of the case and the purposes of this chapter''.

Subsec. (j)(2). Pub. L. 109–173 substituted ''Deposit Insurance Fund'' for ''Savings Association Insurance Fund''.

Pub. L. 109–171 repealed Pub. L. 104–208, § 2704(d)(17). See 1996 Amendment note below.

Subsec. (m). Pub. L. 109–351, § 727(a)(2), substituted ''(m) [Repealed]'' for subsec. (m), which defined ''qualified savings bank''.

2004—Subsec. (c)(3). Pub. L. 108–386 struck out heading and text of par. (3). Text read as follows: ''The term 'District bank' means any bank operating under the Code of Law for the District of Columbia''.

1999—Subsec. (a)(5)(E)(i). Pub. L. 106–102, § 724, inserted ''1 or more'' before ''thrift institutions''.

Subsec. (c)(2)(H). Pub. L. 106–102, § 107(c), inserted '', or that is otherwise permissible for a bank controlled by a company described in section 1843(f)(1) of this title'' before period at end of concluding provisions.

Subsec. (n). Pub. L. 106–102, § 103(c)(1)(A), inserted '' 'depository institution','' after ''the terms''.

Subsec. (*o*)(1)(A). Pub. L. 106–102, § 119, substituted ''section 38'' for ''section 38(b)''.

Subsecs. (p), (q). Pub. L. 106–102, § 103(c)(1)(B), added subsecs. (p) and (q).

1996—Subsec. (b). Pub. L. 104–208, § 2610(1), inserted '', and shall not include a qualified family partnership'' after ''by any State''.

Subsec. (c)(2)(F). Pub. L. 104–208, § 2304(b), inserted '', including an institution that accepts collateral for extensions of credit by holding deposits under $100,000, and by other means'' after ''An institution'' in introductory provisions.

Subsec. (g)(3). Pub. L. 104–208, § 2207, struck out par. (3) which read as follows: ''shares transferred after January 1, 1966, by any bank holding company (or by any company which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor, or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.''

Subsec. (j)(2). Pub. L. 104–208, § 2704(d)(17), which directed substitution of ''Deposit Insurance Fund'' for ''Savings Association Insurance Fund'', was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (*o*)(1). Pub. L. 104–208, § 2208(b)(1), added heading and text of par. (1) and struck out heading and text of former par. (1). Text read as follows: ''The term 'adequately capitalized' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.''

Subsec. (*o*)(8), (9). Pub. L. 104–208, § 2208(b)(2), added pars. (8) and (9).

Subsec. (*o*)(10). Pub. L. 104–208, § 2610(2), added par. (10).

1994—Subsecs. (n), (*o*). Pub. L. 103–328 added subsecs. (n) and (*o*).

1989—Subsec. (j). Pub. L. 101–73 amended subsec. (j) generally, substituting provisions defining ''saving association'' or ''insured institution'' for provisions defining ''insured institution''.

1987—Subsec. (a)(5)(E). Pub. L. 100–86, §101(e), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''No company is a bank holding company by virtue of its ownership or control of any State chartered bank or trust company which is wholly owned by thrift institutions and which restricts itself to the acceptance of deposits from thrift institutions, deposits arising out of the corporate business of its owners, and deposits of public moneys.''

Subsec. (c). Pub. L. 100–86, §101(a)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: '' 'Bank' means any institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, except an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or an institution chartered by the Federal Home Loan Bank Board, which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans. Such term does not include any organization operating under section 25 or section 25 (a) of the Federal Reserve Act, or any organization which does not do business within the United States except as an incident to its activities outside the United States. 'District bank' means any bank organized or operating under the Code of Law for the District of Columbia. The term 'bank' also includes a State chartered bank or a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions or by a bank holding company which is owned exclusively by other depository institutions and is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees.''

Subsec. (h)(2). Pub. L. 100–86, §205(a), added par. (2) and struck out former par. (2) which read as follows: ''The prohibitions of section 1843 of this title shall not apply to shares of any company organized under the laws of a foreign country (or to shares held by such company in any company engaged in the same general line of business as the investor company or in a business related to the business of the investor company) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States, except that (1) such exempt foreign company (A) may engage in or hold shares of a company engaged in the business of underwriting, selling or distributing securities in the United States only to the extent that a bank holding company may do so under this chapter and under regulations or orders issued by the Board under this chapter, and (B) may engage in the United States in any banking or financial operations or types of activities permitted under section 1843(c)(8) of this title or in any order or regulation issued by the Board under such section only with the Board's prior approval under that section, and (2) no domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of such company may extend credit to a domestic office or subsidiary of such exempt company on terms more favorable than those afforded similar borrowers in the United States.''

Subsec. (h)(3) to (5). Pub. L. 100–86, §205(a), added pars. (3) to (5).

Subsec. (i). Pub. L. 100–86, §101(a)(2), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: ''The term 'thrift institution' means (1) a domestic building and loan or savings and loan association, (2) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, (3) a mutual savings bank not having capital stock represented by shares or (4) a Federal savings bank.''

Subsecs. (j) to (m). Pub. L. 100–86, §101(a)(3), added subsecs. (j) to (m).

1982—Subsec. (c). Pub. L. 97–320, §404(d)(1), inserted references to State chartered banks and national banking associations as being included in definition of ''bank''.

Pub. L. 97–320, §333, excepted from term ''bank'' an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or an institution chartered by the Federal Home Loan Bank Board.

Subsec. (i)(4). Pub. L. 97–320, §118(b), added cl. (4).

1978—Subsec. (h). Pub. L. 95–369 designated existing provisions as par. (1), substituted ''Except as provided by paragraph (2), the application'' for ''The application''; struck out a proviso holding the prohibitions of section 1843 not applicable to shares of any company organized under the laws of a foreign country not doing business within the United States, if such shares are held or acquired by a bank holding company principally engaged in banking business outside the United States; and added par. (2).

1977—Subsec. (a)(5)(D). Pub. L. 95–188 authorized the Board to extend the time for disposition of acquired shares for not more than one year at a time and three years in the aggregate.

1970—Subsec. (a). Pub. L. 91–607, §101(a), in revising the provisions, added par. (1) definition of bank holding company; incorporated provisions of former cl. (1) in provisions designated as par. (2)(A), inserting text respecting company acting through one or more other persons, substituting ''power to vote'' for ''holds with power to vote'' and provision for voting of any class of voting securities of the bank or company for prior provision for voting of voting shares of each of two or more banks; incorporated former provisions of former cl. (2) in provisions designated as par. (2)(B), providing for election of trustees and substituting bank or company for directors of each of two or more banks designated cl. (A) as par. (5)(A), inserting provision that acquisition of shares shall not be deemed acquisition of shares in a fiduciary capacity if the banks or company has sole discretionary authority to exercise voting rights with respect thereto, and making such limitation applicable to bank or company acquiring the shares prior to Dec. 31, 1970, where there is right of divestiture of voting rights and there is a failure to exercise that right within reasonable time not exceeding one year after Dec. 31, 1970; incorporated former cls. (B) and (C) in provisions designated as pars. (5)(B) and (C); added par. (5)(D) to (F); and designated concluding part of first sentence as par. (6), substituting ''from the date on which'' for ''from the date as of which''.

Subsec. (b). Pub. L. 91–607, §101(b), redefined term ''company'' to include ''partnership'', which has been expressly excluded, and inserted definition of ''company covered in 1970''.

Subsec. (c). Pub. L. 91–607, §101(c), redefined term ''bank'' to mean any institution organized under Federal, State, District of Columbia, etc., laws, designated existing provisions as cl. (1), added cl. (2), and excepted from exclusion from such term an organization which does business within the United States as an incident to its activities outside the United States.

Subsec. (d)(3). Pub. L. 91–607, §101(d), added cl. (3).

Subsec. (i). Pub. L. 91–607, §101(e), added subsec. (i).

1966—Subsec. (a). Pub. L. 89–485, §1, struck out provision placing within the classification of bank holding company any company for the benefit of whose shareholders or members 25 per centum or more of the voting shares of each of two or more banks or a bank holding company is held by trustees, struck out provision exempting from classification as bank holding companies any companies that are registered under the Investment Company Act of 1940, and were so registered prior to May 15, 1955 (or which is affiliated with any

such company in such manner as to constitute an affiliated company within the meaning of that Act), unless that company (or affiliated company), as the case may be, directly owns 25 per centum or more of the voting shares of each of two or more banks, struck out provision exempting from classification as bank holding companies any companies having 80 per centum or more of their total assets composed of holdings in the field of agriculture, substituted voting shares for shares in the description of the securities the ownership or control of which, in a fiduciary capacity, would be exempted from causing the formation of a bank holding company, added ''company'' to ''bank'' as the business entities eligible for the fiduciary ownership exemption, and inserted reference in the fiduciary ownership exemption to pars. (2) and (3) of subsec. (g) of this section.

Subsec. (b). Pub. L. 89–485, §2, exempted from definition of ''company'' any trust which by its terms must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, and struck out the exemption formerly granted to nonprofit religious, charitable, and educational organizations.

Subsec. (c). Pub. L. 89–485, §3, substituted ''any institution that accepts deposits that the depositor has a legal right to withdraw on demand'' for ''any national banking institution or any state bank, savings bank, or trust company'' in the definition of ''bank'' and extended the exemption for foreign banking corporations to include ''agreement'' foreign banking corporations under section 25 of the Federal Reserve Act.

Subsec. (d). Pub. L. 89–485, §4, inserted provision relating to indirect ownership or control and the holding of power to vote to direct ownership or control as the methods by which the holding of 25 per centum or more of voting shares in a company will qualify that company as a subsidiary, and struck out provisions under which any company 25 per centum or more of whose voting shares are held by trustees for the benefit of the shareholders or members of a bank holding company qualifies as a subsidiary.

Subsec. (g). Pub. L. 89–485, §§5, 6, substituted provisions setting out treatment to be accorded shares owned or controlled by subsidiaries of bank holding companies, shares held or controlled by trustees for the benefit of companies, shareholders or members of companies, and employees of companies, and shares transferred after January 1, 1966, by bank holding companies to transferees that are indebted to the transferor or have one or more officers, directors, trustees, or beneficiaries in common with the transferor for provisions defining ''agriculture''.

Subsec. (h). Pub. L. 89–485, §6, added subsec. (h).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 354(1) of 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.

Amendment by sections 623(b)(2) and 628 of Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109–173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–386 effective Oct. 30, 2004, and, except as otherwise provided, applicable with respect to fiscal year 2005 and each succeeding fiscal year, see sections 8(i) and 9 of Pub. L. 108–386, set out as notes under section 321 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by sections 103(c)(1), 107(c), and 119 of 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.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(17) of Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–328 effective at end of 1-year period beginning on Sept. 29, 1994, see section 101(e) of Pub. L. 103–328, set out as a note under section 1828 of this title.

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–418, title III, §3401, Aug. 23, 1988, 102 Stat. 1384, provided that: ''This subtitle [subtitle E (§§3401, 3402) of title III of Pub. L. 100–418, amending section 1843 of this title] may be cited as the 'Export Trading Company Act Amendments of 1988'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–290, title II, §201, Oct. 8, 1982, 96 Stat. 1235, provided that: ''This title [enacting section 635a–4 of this title, amending sections 372 and 1843 of this title, and enacting provisions set out as notes under section 1843 of this title] may be cited as the 'Bank Export Services Act'.''

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–607, §1, Dec. 31, 1970, 84 Stat. 1760, provided: ''That this Act [enacting chapter 22 (§1971 et seq.) and section 1850 of this title and sections 324b and 324c of former Title 31, Money and Finance, amending sections 1841 to 1843 and 1849 of this title and sections 324, 391 of former Title 31, repealing sections 316 and 458 of former Title 31, enacting provisions set out as notes under sections 317e and 391 of former Title 31, and amending provisions set out as a note under section 405a–1 of former Title 31] may be cited as the 'Bank Holding Company Act Amendments of 1970'.''

SHORT TITLE

Act May 9, 1956, ch. 240, §1, 70 Stat. 133, provided: ''That this Act [enacting this chapter and sections 1101 to 1103 of Title 26, Internal Revenue Code] may be cited as the 'Bank Holding Company Act of 1956'.''

SEPARABILITY

Act May 9, 1956, ch. 240, §12, 70 Stat. 146, provided that: ''If any provision of this Act [enacting this chapter and sections 1101 to 1103 of Title 26, Internal Revenue Code], or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.''

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and functions transferred, see sections 401 to 406 of Pub. L. 101–73, set out as a note under section 1437 of this title.

TRANSITIONAL RULE FOR 1987 AMENDMENT

Pub. L. 100–86, title I, §101(h), Aug. 10, 1987, 101 Stat. 563, provided that:

''(1) DELAY IN APPLICATION OF AMENDMENT TO CERTAIN INSTITUTIONS.—If—

''(A) on March 5, 1987, an institution was not a bank (as defined in section 2(c) of the Bank Holding Company Act of 1956 [12 U.S.C. 1841(c)]), as in effect on such date; and

''(B) any person which had a controlling interest in such institution on March 5, 1987, made a public announcement before such date that the transfer or other disposition of such person's controlling interest in such institution was being considered,

the institution shall not become a bank (for purposes of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.]) due to the amendment made to such section 2(c) by this section before the date on which such institution fails to meet any requirement of paragraph (2).

''(2) REQUIREMENTS FOR APPLICATION OF SUBSECTION.—This subsection shall not apply with respect to any institution described in paragraph (1) unless—

''(A) the transfer or other disposition of the controlling interest referred to in such paragraph is completed, or an agreement to make such transfer or other disposition is in effect (or is subject only to final approval by the appropriate Federal and State regulatory agencies), before the end of the 180-day period beginning on the date of the enactment of this title [Aug. 10, 1987];

''(B) a written notice by the person acquiring a controlling interest in such institution (pursuant to the transfer or other disposition described in subparagraph (A)) of such person's intention to operate such institution as an institution described in section 2(c)(2)(F) of the Bank Holding Company Act of 1956, as in effect after the enactment of this title is filed with the Board before the end of the 7-day period beginning on the later of the date of such transfer (or other disposition) or the date of the enactment of this title; and

''(C) the operation of such institution as an institution described in such section 2(c)(2)(F) begins before the end of the 180-day period beginning on the date the transfer (or other disposition) described in subparagraph (A) is completed.

''(3) CONTROLLING INTEREST.—For purposes of this subsection, a person has a controlling interest in any institution if such person controls—

''(A) such institution; or

''(B) any company which controls such institution, as determined in accordance with the provisions of subsections (b) and (g) of section 2 of the Bank Holding Company Act of 1956.''

MORATORIUM ON CERTAIN NONBANKING ACTIVITIES

Pub. L. 100–86, title II, §§201–203, Aug. 10, 1987, 101 Stat. 581–584, provided for the period of Mar. 6, 1987, to Mar. 1, 1988, a moratorium on certain nonbanking activities, including expansion of activities of foreign banks and authority of Federal banking agencies to authorize or allow certain security, insurance, or real estate activities.

§ 1842. Acquisition of bank shares or assets

(a) Prior approval of Board as necessary; exceptions; disposition, time extension; subsequent approval or disposition upon disapproval

It shall be unlawful, except with the prior approval of the Board, (1) for any action to be taken that causes any company to become a bank holding company; (2) for any action to be taken that causes a bank to become a subsidiary of a bank holding company; (3) for any bank holding company to acquire direct or indirect ownership or control of any voting shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than 5 per centum of the voting shares of such bank; (4) for any bank holding company or subsidiary thereof, other than a bank, to acquire all or substantially all of the assets of a bank; or (5) for any bank holding company to merge or consolidate with any other bank holding company. Notwithstanding the foregoing this prohibition shall not apply to (A) shares acquired by a bank, (i) in good faith in a fiduciary capacity, except where such shares are held under a trust that constitutes a company as defined in section 1841(b) of this title and except as provided in paragraphs (2) and (3) of section 1841(g) of this title, or (ii) in the regular course of securing or collecting a debt previously contracted in good faith, but any shares acquired after May 9, 1956, in securing or collecting any such previously contracted debt shall be disposed of within a period of two years from the date on which they were acquired; (B) additional shares acquired by a bank holding company in a bank in which such bank holding company owned or controlled a majority of the voting shares prior to such acquisition; or (C) the acquisition, by a company, of control of a bank in a reorganization in which a person or group of persons exchanges their shares of the bank for shares of a newly formed bank holding company and receives after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

(i) immediately following the acquisition—

(I) the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company; and

(II) the bank is adequately capitalized (as defined in section 1831*o* of this title);

(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization;

(iii) the company provides 30 days prior notice to the Board and the Board does not object to such transaction during such 30-day period; and

(iv) the holding company will not acquire control of any additional bank as a result of the reorganization..[1]

The Board is authorized upon application by a bank to extend, from time to time for not more than one year at a time, the two-year period referred to above for disposing of any shares acquired by a bank 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. For the purpose of the preceding sentence, bank shares acquired after December 31, 1970, shall not be deemed to have been acquired in good faith in a fiduciary capacity if the acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto, but in such instances acquisitions may be made without prior approval of the Board if the Board, upon application filed within ninety days after the shares are acquired, approves retention or, if retention is

[1] So in original.