

Oct. 3, 2008, and ending on Dec. 31, 2009, see section 5241(b)(1) of this title.

§ 1788. Special assistance to avoid liquidation

(a) Loans; purchase of assets; accounts; agreements affecting interest of Board in any asset acquired by it

(1) In order to reopen a closed insured credit union or in order to prevent the closing of an insured credit union which the Board has determined is in danger of closing or in order to assist in the voluntary liquidation of a solvent credit union, the Board, in its discretion, is authorized to make loans to, or purchase the assets of, or establish accounts in such insured credit union upon such terms and conditions as it may prescribe. Except with respect to the voluntary liquidation of a solvent credit union, such loans shall be made and such accounts shall be established only when, in the opinion of the Board, such action is necessary to protect the fund or the interests of the members of the credit union.

(2) Whenever in the judgment of the Board such action will reduce the risk or avert a threatened loss to the fund and will facilitate a merger or consolidation of an insured credit union with another insured credit union, or will facilitate the sale of the assets of an open or closed insured credit union to and assumption of its liability by another person, the Board may, upon such terms and conditions as it may determine, make loans secured in whole or in part by assets of an open or closed insured credit union, which loans may be in subordination to the rights of members and creditors of such credit union, or the Board may purchase any of such assets or may guarantee any person against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed insured credit union. For purposes of this paragraph, the term "person" means any credit union, individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(3) No agreement which tends to diminish or defeat the right, title, or interest of the Board, in any asset acquired by it under this subsection, either as security for a loan or by purchase, shall be valid against the Board unless such agreement—

(A) shall be in writing;

(B) shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

(C) shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of such board; and

(D) shall have been continuously, from the time of its execution, an official record of the credit union.

(b) Protection of Fund

For the protection of the Fund, the Board, without regard to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, may—

(1) deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, sell for cash or credit, or lease, in its discretion, any real property acquired or held by it under this section; and

(2) assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by it under this section.

Section 6101 of title 41 shall not apply to any purchase or contract for services or supplies made or entered into by the Board under this section if the amount thereof does not exceed \$1,000, or to any contract for hazard insurance on any real property acquired or held by it under this section.

(c) Money paid into Fund

Money received by the Board in carrying out this section shall be paid into the Fund.

(June 26, 1934, ch. 750, title II, §208, as added Pub. L. 91-468, §1(3), Oct. 19, 1970, 84 Stat. 1013; amended Pub. L. 92-221, §3, Dec. 23, 1971, 85 Stat. 797; Pub. L. 93-383, title VII, §729, Aug. 22, 1974, 88 Stat. 721; Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 100-86, title VII, §714(b), (c), Aug. 10, 1987, 101 Stat. 655.)

CODIFICATION

In subsec. (b), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949" and "Section 6101 of title 41" substituted for "Section 3709 of the Revised Statutes of the United States" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1987—Subsecs. (c), (d). Pub. L. 100-86 redesignated subsec. (c) as section 1787(j) of this title and subsec. (d) as (c).

1978—Pub. L. 95-630 substituted "Board" for "Administrator" wherever appearing, "it" for "he" and "its" for "him", and "its" for "his", where appropriate.

1974—Subsec. (a)(1). Pub. L. 93-383 inserted provisions relating to the voluntary liquidation of a solvent credit union and struck out provisions subordinating loans and accounts to the rights of members and creditors of the credit union.

1971—Subsec. (a)(2). Pub. L. 92-221 substituted "assumption of its liability by another person" for "assumption of its liability by another insured credit union" and "may guarantee any person against loss by reason of his" for "may guarantee any other insured credit union against loss by reason of its" and inserted definition of "person" as that term is used in par. (2).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

§ 1789. Administrative provisions

(a) In carrying out the purposes of this subchapter, the Board may—

(1) make contracts;

(2) sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in

equity to which the Board shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy. The Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect, except that any such suit to which the Board is a party in its capacity as liquidating agent of a State-chartered credit union and which involves only the rights or obligations of members, creditors, and such State credit union under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Board or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Board shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any insured credit union is located;

(3) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of \$5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

(4) to appoint such officers and employees as are not otherwise provided for in this chapter, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this chapter or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Administration of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof;

(5) employ experts and consultants or organizations thereof, as authorized by section 3109 of title 5;

(6) prescribe the manner in which its general business may be conducted and the privileges granted to it by law may be exercised and enjoyed;

(7) exercise all powers specifically granted by the provisions of this subchapter and such incidental powers as shall be necessary to carry out the power so granted;

(8) make examinations of and require information and reports from insured credit unions, as provided in this subchapter;

(9) act as liquidating agent;

(10) delegate to any officer or employee of the Administration such of its functions as it deems appropriate; and

(11) prescribe such rules and regulations as it may deem necessary or appropriate to carry out the provisions of this subchapter.

(b) With respect to the financial operations arising by reason of this subchapter, the Board shall—

(1) on an annual basis and prior to the submission of the detailed business-type budget required under paragraph (2)—

(A) make publicly available and publish in the Federal Register a draft of the detailed business-type budget; and

(B) hold a public hearing, with public notice provided of the hearing, during which the public may submit comments on the draft of the detailed business-type budget;

(2) prepare annually and submit a detailed business-type budget as provided for wholly owned Government corporations by chapter 91 of title 31, which shall address any comment submitted by the public under paragraph (1)(B); and

(3) maintain an integral set of accounts, which shall be audited by the Government Accountability Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 9105¹ of title 31.

(June 26, 1934, ch. 750, title II, §209, as added Pub. L. 91-468, §1(3), Oct. 19, 1970, 84 Stat. 1014; amended Pub. L. 93-604, title VII, §706, Jan. 2, 1975, 88 Stat. 1964; Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-351, title VII, §726(24), Oct. 13, 2006, 120 Stat. 2003; Pub. L. 115-174, title II, §212, May 24, 2018, 132 Stat. 1319.)

REFERENCES IN TEXT

Section 9105 of title 31, referred to in subsec. (b)(3), was amended generally by Pub. L. 101-576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and as so amended no longer directs audits to be conducted in accordance with principles and procedures applicable to commercial corporate transactions.

CODIFICATION

In subsec. (a)(5), “section 3109 of title 5” substituted for “section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)” on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (b)(2), (3), “chapter 91 of title 31” and “section 9105 of title 31” substituted for “the Government Corporation Control Act [31 U.S.C. 841 et seq.]” and “section 105 of the Government Corporation Control Act [31 U.S.C. 850]”, respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-174 added par. (1), redesignated former pars. (1) and (2) as (2) and (3), respectively, and, in par. (2), inserted “detailed” after “submit a” and “, which shall address any comment submitted by the public under paragraph (1)(B)” after “title 31”.

2006—Subsec. (a)(8). Pub. L. 109-351 substituted a semicolon for period at end.

2004—Subsec. (b)(2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1978—Pub. L. 95-630 substituted “Board” for “Administrator” wherever appearing, “its” for “his”, and “it” for “he” and “him”, where appropriate.

1975—Subsec. (b)(2). Pub. L. 93-604 substituted “audited by the General Accounting Office” for “audited annually by the General Accounting Office”.

¹ See References in Text note below.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

§ 1789a. Credit unions as depositaries of public money; fiscal agents; duties

Any credit union the accounts of which are insured under this subchapter shall be a depositary of public money and may be employed as fiscal agent of the United States. The Secretary of the Treasury is authorized to deposit public money in any such insured credit union, and shall prescribe such regulations as may be necessary to enable such credit unions to become depositaries of public money and fiscal agents of the United States. Each credit union shall perform all such reasonable duties as depositaries of public money and fiscal agent of the United States as may be required of it including services in connection with the collection of taxes and other obligations owed the United States.

(June 26, 1934, ch. 750, title II, §210, as added Pub. L. 95-147, §2(c)(1), Oct. 28, 1977, 91 Stat. 1227.)

PRIOR PROVISIONS

A prior section 210 of act June 26, 1934, ch. 750, was re-numbered section 211 and is classified to section 1790 of this title.

§ 1790. Nondiscriminatory provision

It is not the purpose of this subchapter to discriminate in any manner against State-chartered credit unions and in favor of Federal credit unions, but it is the purpose of this subchapter to provide all credit unions with the same opportunity to obtain and enjoy the benefits of this subchapter.

(June 26, 1934, ch. 750, title II, §211, formerly §210, as added Pub. L. 91-468, §1(3), Oct. 19, 1970, 84 Stat. 1015; renumbered §211, Pub. L. 95-147, §2(c)(2), Oct. 28, 1977, 91 Stat. 1228.)

§ 1790a. Board disapproval of directors, committee members, and senior executive officers of insured credit unions

(a) Prior notice required

An insured credit union shall notify the Board of the proposed addition of any individual to the board of directors or committee or the employment of any individual as a senior executive officer of such credit union at least 30 days before such addition or employment becomes effective, if the insured credit union—

- (1) has been chartered less than 2 years; or
- (2) is in troubled condition, as determined on the basis of such credit union's most recent report of condition or report of examination.

(b) Disapproval by Board

An insured credit union may not add any individual to the board of directors or employ any individual as a senior executive officer if the Board issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

(c) Exception in extraordinary circumstances

(1) In general

The Board may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

(2) No effect on disapproval authority of Board

Such waivers shall not affect the authority of the Board to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

(d) Additional information

Any notice submitted to the Board by any insured credit union pursuant to subsection (a) shall include—

- (1) the information described in section 1817(j)(6)(A) of this title about the individual; and
- (2) such other information as the Board may prescribe by regulation.

(e) Standard for disapproval

The Board shall issue a notice of disapproval with respect to a notice submitted pursuant to subsection (a) if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the insured credit union or in the best interests of the public to permit the individual to be employed by, or associated with, such insured credit union.

(f) Definition regulations

The Board shall prescribe by regulation a definition for the terms “troubled condition” and “senior executive officer” for purposes of subsection (a).

(June 26, 1934, ch. 750, title II, §212, as added Pub. L. 101-73, title IX, §914(b), Aug. 9, 1989, 103 Stat. 485.)

CODIFICATION

Section 914(b) of Pub. L. 101-73, which directed that this section be added to title II of “the Federal Credit Union Insurance Act (12 U.S.C. 1781 et seq.)” was executed by adding this section to the Federal Credit Union Act, which comprises this chapter, as the probable intent of Congress.

§ 1790b. Credit union employee protection remedy

(a) In general

(1) Employees of credit unions

No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

(2) Employees of the Administration

The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Cred-