

“(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

“(b) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than February 28, 1999.

“(c) DEFINITIONS.—For purposes of this section:

“(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term ‘appropriate Federal banking agency’ has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

“(2) INSURED DEPOSITORY INSTITUTION.—The term ‘insured depository institution’ has the same meaning as in section 3 of the Federal Deposit Insurance Act.

“(3) LEVERAGE LIMIT.—The term ‘leverage limit’ has the same meaning as in section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831o].

“(4) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term ‘qualifying amount attributable to insurance proceeds’ means the amount (if any) by which the institution’s total assets exceed the institution’s average total assets during the calendar quarter ending before the date of any determination referred to in subsection (a)(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.” Similar provisions were contained in the following prior acts:

Pub. L. 103-76, § 3, Aug. 12, 1993, 107 Stat. 753.

Pub. L. 102-485, § 4, Oct. 23, 1992, 106 Stat. 2772.

TRANSITION RULE REGARDING CURRENT DIRECTORS AND SENIOR EXECUTIVE OFFICERS

Pub. L. 102-242, title I, § 131(e), Dec. 19, 1991, 105 Stat. 2267, provided that:

“(1) DISMISSAL FROM OFFICE.—Section 38(f)(2)(F)(ii) of the Federal Deposit Insurance Act [12 U.S.C. 1831o(f)(2)(F)(ii)] (as added by subsection (a)) shall not apply with respect to—

“(A) any director whose current term as a director commenced on or before the date of enactment of this Act [Dec. 19, 1991] and has not been extended—

“(i) after that date of enactment, or

“(ii) to evade section 38(f)(2)(F)(ii); or

“(B) any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

“(i) after that date of enactment, or

“(ii) to evade section 38(f)(2)(F)(ii).

“(2) RESTRICTING COMPENSATION.—Section 38(f)(4) of the Federal Deposit Insurance Act [12 U.S.C. 1831o(f)(4)] (as added by subsection (a)) shall not apply with respect to any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act [Dec. 19, 1991] and whose contract of employment has not been renewed or renegotiated—

“(A) after that date of enactment, or

“(B) to evade section 38(f)(4).”

§ 1831o-1. Source of strength

(a) Holding companies

The appropriate Federal banking agency for a bank holding company or savings and loan holding company shall require the bank holding company or savings and loan holding company to serve as a source of financial strength for any subsidiary of the bank holding company or savings and loan holding company that is a depository institution.

(b) Other companies

If an insured depository institution is not the subsidiary of a bank holding company or savings

and loan holding company, the appropriate Federal banking agency for the insured depository institution shall require any company that directly or indirectly controls the insured depository institution to serve as a source of financial strength for such institution.

(c) Authority of State insurance regulator

(1) In general

The provisions of section 1844(g) of this title shall apply to a savings and loan holding company that is an insurance company, an affiliate of an insured depository institution that is an insurance company, and to any other company that is an insurance company and that directly or indirectly controls an insured depository institution, to the same extent as the provisions of that section apply to a bank holding company that is an insurance company.

(2) Rule of construction

Requiring a bank holding company that is an insurance company, a savings and loan holding company that is an insurance company, an affiliate of an insured depository institution that is an insurance company, or any other company that is an insurance company and that directly or indirectly controls an insured depository institution to serve as a source of financial strength under this section shall be deemed an action of the Board that requires a bank holding company to provide funds or other assets to a subsidiary depository institution for purposes of section 1844(g) of this title.

(d) Reports

The appropriate Federal banking agency for an insured depository institution described in subsection (b) may, from time to time, require the company, or a company that directly or indirectly controls the insured depository institution, to submit a report, under oath, for the purposes of—

(1) assessing the ability of such company to comply with the requirement under subsection (b); and

(2) enforcing the compliance of such company with the requirement under subsection (b).

(e) Rules

Not later than 1 year after the transfer date, as defined in section 5411 of this title, the appropriate Federal banking agencies shall jointly issue final rules to carry out this section.

(f) Definition

In this section, the term “source of financial strength” means the ability of a company that directly or indirectly owns or controls an insured depository institution to provide financial assistance to such insured depository institution in the event of the financial distress of the insured depository institution.

(Sept. 21, 1950, ch. 967, § 2[38A], as added Pub. L. 111-203, title VI, § 616(d), July 21, 2010, 124 Stat. 1616; amended Pub. L. 114-113, div. O, title VII, § 706(a), Dec. 18, 2015, 129 Stat. 3029.)

AMENDMENTS

2015—Subsecs. (c) to (f). Pub. L. 114-113 added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

EFFECTIVE DATE

Section effective on the transfer date, see section 616(e) of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 1467a of this title.

§ 1831p. Transferred

CODIFICATION

Section, act Sept. 21, 1950, ch. 967, §2[39], as added Dec. 19, 1991, Pub. L. 102-242, title II, §228, 105 Stat. 2308, which related to notice of branch closure, was renumbered section 2[42] of act Sept. 21, 1950, by Pub. L. 102-550, title XI, §1602(a), Oct. 28, 1992, 106 Stat. 4079, and transferred to section 1831r-1 of this title.

§ 1831p-1. Standards for safety and soundness**(a) Operational and managerial standards**

Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

(1) standards relating to—

(A) internal controls, information systems, and internal audit systems, in accordance with section 1831m of this title;

(B) loan documentation;

(C) credit underwriting;

(D) interest rate exposure;

(E) asset growth; and

(F) compensation, fees, and benefits, in accordance with subsection (c); and

(2) such other operational and managerial standards as the agency determines to be appropriate.

(b) Asset quality, earnings, and stock valuation standards

Each appropriate Federal banking agency shall prescribe standards, by regulation or guideline, for all insured depository institutions relating to asset quality, earnings, and stock valuation that the agency determines to be appropriate.

(c) Compensation standards

Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees or benefits; or

(B) could lead to material financial loss to the institution;

(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

(A) the combined value of all cash and noncash benefits provided to the individual;

(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

(C) the financial condition of the institution;

(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

(E) for postemployment benefits, the projected total cost and benefit to the institution;

(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

(G) other factors that the agency determines to be relevant; and

(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

(d) Standards to be prescribed**(1) In general**

Standards under subsections (a), (b), and (c) shall be prescribed by regulation or guideline. Such regulations or guidelines may not prescribe standards that set a specific level or range of compensation for directors, officers, or employees of insured depository institutions.

(2) Applicability of other laws

Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict the level of compensation, including golden parachute payments (as defined in section 1828(k)(4) of this title), paid to any director, officer, or employee of an insured depository institution under any other provision of law.

(3) Senior executive officers at undercapitalized institutions

Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict compensation paid to any senior executive officer of an undercapitalized insured depository institution pursuant to section 1831o of this title.

(4) Safety and soundness or enforcement actions

Paragraph (1) shall not be construed as affecting the authority of any appropriate Federal banking agency under any provision of this chapter other than this section, or under any other provision of law, to prescribe a specific level or range of compensation for any director, officer, or employee of an insured depository institution—

(A) to preserve the safety and soundness of the institution; or

(B) in connection with any action under section 1818 of this title or any order issued by the agency, any agreement between the agency and the institution, or any condition imposed by the agency in connection with the agency's approval of an application or