pointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) Community development corporation requirements

Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) Adequate dispersal requirement

The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) Definitions

For purposes of this section—

(1) Community development bank

The term ''community development bank'' means any depository institution (as defined in section 1813(c)(1) of this title).

(2) Community development organization

The term ''community development organization'' means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) Low- and moderate-income persons

The term ''low- and moderate-income persons'' has the meaning given such term in section 5302(a)(20) of title 42.

(4) Nonprofit organization; small business

The terms ''nonprofit organization'' and ''small business'' have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) Qualified distressed community

The term ''qualified distressed community'' has the meaning given to such term in section 1834a(b) of this title.

(Pub. L. 102–242, title II, § 234, Dec. 19, 1991, 105 Stat. 2315.)

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (a) and (d), is subtitle C (§§ 231–234) of title II of Pub. L. 102–242, Dec. 19, 1991, 105 Stat. 2308, known as the Bank Enterprise Act of 1991, which enacted this section and sections 1834 and 1834a of this title, amended section 1817 of this title, and enacted provisions set out as a note under section 1811 of this title. For complete classification of subtitle C to the Code, see section 231 of Pub. L. 102–242, set out as a Short Title of 1991 Amendment note under section 1811 of this title and Tables.

Section 1602(i) of title 15, referred to in subsec. (a)(3), was redesignated section 1602(j) of title 15 by Pub. L. 111–203, title X, § 1100A(1)(A), July 21, 2010, 124 Stat. 2107.

CODIFICATION

Section was enacted as part of the Bank Enterprise Act of 1991, and also as part of the Foreign Bank Supervision Enhancement Act of 1991 and as part of the Federal Deposit Insurance Corporation Improvement Act of 1991, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

§ 1835. Insured depository institution capital requirements for transfers of small business obligations

(a) Accounting principles

The accounting principles applicable to the transfer of a small business loan or a lease of personal property with recourse contained in reports or statements required to be filed with Federal banking agencies by a qualified insured depository institution shall be consistent with generally accepted accounting principles.

(b) Capital and reserve requirements

With respect to the transfer of a small business loan or lease of personal property with recourse that is a sale under generally accepted accounting principles, each qualified insured depository institution shall—

(1) establish and maintain a reserve equal to an amount sufficient to meet the reasonable estimated liability of the institution under the recourse arrangement; and

(2) include, for purposes of applicable capital standards and other capital measures, only the amount of the retained recourse in the risk-weighted assets of the institution.

(c) Qualified institutions criteria

An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b), the institution is—

(1) well capitalized; or

(2) with the approval, by regulation or order, of the appropriate Federal banking agency, adequately capitalized.

(d) Aggregate amount of recourse

The total outstanding amount of recourse retained by a qualified insured depository institution with respect to transfers of small business loans and leases of personal property under subsections (a) and (b) shall not exceed—

(1) 15 percent of the risk-based capital of the institution; or

(2) such greater amount, as established by the appropriate Federal banking agency by regulation or order.

(e) Institutions that cease to be qualified or exceed aggregate limits

If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d), this section shall remain applicable to any transfers of small business loans or leases of personal property that occurred during the time that the institution was qualified and did not exceed such limit.

(f) Prompt corrective action not affected

The capital of an insured depository institution shall be computed without regard to this

section in determining whether the institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under section 1831*o* of this title.

(g) Regulations required

Not later than 180 days after September 23, 1994, each appropriate Federal banking agency shall promulgate final regulations implementing this section.

(h) Alternative system permitted

(1) In general

At the discretion of the appropriate Federal banking agency, this section shall not apply if the regulations of the agency provide that the aggregate amount of capital and reserves required with respect to the transfer of small business loans and leases of personal property with recourse does not exceed the aggregate amount of capital and reserves that would be required under subsection (b).

(2) Existing transactions not affected

Notwithstanding paragraph (1), this section shall remain in effect with respect to transfers of small business loans and leases of personal property with recourse by qualified insured depository institutions occurring before the effective date of regulations referred to in paragraph (1).

(i) Definitions

For purposes of this section—

(1) the term ''adequately capitalized'' has the same meaning as in section 1831*o*(b) of this title;

(2) the term ''appropriate Federal banking agency'' has the same meaning as in section 1813 of this title;

(3) the term ''capital standards'' has the same meaning as in section 1831*o*(c) of this title;

(4) the term ''Federal banking agencies'' has the same meaning as in section 1813 of this title;

(5) the term ''insured depository institution'' has the same meaning as in section 1813 of this title;

(6) the term ''other capital measures'' has the meaning as in section 1831*o*(c) of this title;

(7) the term ''recourse'' has the meaning given to such term under generally accepted accounting principles;

(8) the term ''small business'' means a business that meets the criteria for a small business concern established by the Small Business Administration under section 632(a) of title 15; and

(9) the term ''well capitalized'' has the same meaning as in section 1831*o*(b) of this title.

(Pub. L. 103–325, title II, § 208, Sept. 23, 1994, 108 Stat. 2201.)

CODIFICATION

Section was enacted as part of the Small Business Loan Securitization and Secondary Market Enhancement Act of 1994 and as part of the Riegle Community Development and Regulatory Improvement Act of 1994, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

§ 1835a. Prohibition against deposit production offices

(a) Regulations

The appropriate Federal banking agencies shall prescribe uniform regulations effective June 1, 1997, which prohibit any out-of-State bank from using any authority to engage in interstate branching pursuant to this title,[1] or any amendment made by this title[1] to any other provision of law, primarily for the purpose of deposit production.

(b) Guidelines for meeting credit needs

Regulations issued under subsection (a) shall include guidelines to ensure that interstate branches operated by an out-of-State bank in a host State are reasonably helping to meet the credit needs of the communities which the branches serve.

(c) Limitation on out-of-State loans

(1) Limitation

Regulations issued under subsection (a) shall require that, beginning no earlier than 1 year after establishment or acquisition of an interstate branch or branches in a host State by an out-of-State bank, if the appropriate Federal banking agency for the out-of-State bank determines that the bank's level of lending in the host State relative to the deposits from the host State (as reasonably determinable from available information including the agency's sampling of the bank's loan files during an examination or such data as is otherwise available) is less than half the average of total loans in the host State relative to total deposits from the host State (as determinable from relevant sources) for all banks the home State of which is such State—

(A) the appropriate Federal banking agency for the out-of-State bank shall review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host State; and

(B) if the agency determines that the out-of-State bank is not reasonably helping to meet those needs—

(i) the agency may order that an interstate branch or branches of such bank in the host State be closed unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host State, and

(ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) Considerations

In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider—

[1] See References in Text note below.