

(4) the extent to which the activities and operations of the company and any subsidiary thereof, could, under adverse circumstances, have the potential to disrupt financial markets or affect the overall financial stability of the United States.

(b) Use of existing reports

(1) In general

For purposes of compliance with subsection (a), the Council, acting through the Office of Financial Research, shall, to the fullest extent possible, use—

(A) reports that a bank holding company, nonbank financial company supervised by the Board of Governors, or any functionally regulated subsidiary of such company has been required to provide to other Federal or State regulatory agencies or to a relevant foreign supervisory authority;

(B) information that is otherwise required to be reported publicly; and

(C) externally audited financial statements.

(2) Availability

Each bank holding company described in subsection (a) and nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, shall provide to the Council, at the request of the Council, copies of all reports referred to in paragraph (1).

(3) Confidentiality

The Council shall maintain the confidentiality of the reports obtained under subsection (a) and paragraph (1)(A) of this subsection.

(Pub. L. 111-203, title I, § 116, July 21, 2010, 124 Stat. 1406; Pub. L. 115-174, title IV, § 401(c)(1)(B), May 24, 2018, 132 Stat. 1358.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-174 substituted “\$250,000,000,000” for “\$50,000,000,000” in introductory provisions.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 115-174 effective 18 months after May 24, 2018, see section 401(d) of Pub. L. 115-174, set out as a note under section 5365 of this title.

CONSTRUCTION OF 2018 AMENDMENT

For construction of amendment by Pub. L. 115-174 as applied to certain foreign banking organizations, see section 401(g) of Pub. L. 115-174, set out as a note under section 5365 of this title.

§ 5327. Treatment of certain companies that cease to be bank holding companies

(a) Applicability

This section shall apply to—

(1) any entity that—

(A) was a bank holding company having total consolidated assets equal to or greater than \$50,000,000,000 as of January 1, 2010; and

(B) received financial assistance under or participated in the Capital Purchase Pro-

gram established under the Troubled Asset Relief Program authorized by the Emergency Economic Stabilization Act of 2008 [2 U.S.C. 5201 et seq.]; and

(2) any successor entity (as defined by the Board of Governors, in consultation with the Council) to an entity described in paragraph (1).

(b) Treatment

If an entity described in subsection (a) ceases to be a bank holding company at any time after January 1, 2010, then such entity shall be treated as a nonbank financial company supervised by the Board of Governors, as if the Council had made a determination under section 5323 of this title with respect to that entity.

(c) Appeal

(1) Request for hearing

An entity may request, in writing, an opportunity for a written or oral hearing before the Council to appeal its treatment as a nonbank financial company supervised by the Board of Governors in accordance with this section. Upon receipt of the request, the Council shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such entity may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(2) Decision

(A) Proposed decision

A Council decision to grant an appeal under this subsection shall be made by a vote of not fewer than $\frac{2}{3}$ of the voting members then serving, including an affirmative vote by the Chairperson. Not later than 60 days after the date of a hearing under paragraph (1), the Council shall submit a report to, and may testify before, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the proposed decision of the Council regarding an appeal under paragraph (1), which report shall include a statement of the basis for the proposed decision of the Council.

(B) Notice of final decision

The Council shall notify the subject entity of the final decision of the Council regarding an appeal under paragraph (1), which notice shall contain a statement of the basis for the final decision of the Council, not later than 60 days after the later of—

(i) the date of the submission of the report under subparagraph (A); or

(ii) if, not later than 1 year after the date of submission of the report under subparagraph (A), the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives holds one or more hearings regarding such report, the date of the last such hearing.

(C) Considerations

In making a decision regarding an appeal under paragraph (1), the Council shall con-

sider whether the company meets the standards under section 5323(a) or 5323(b) of this title, as applicable, and the definition of the term “nonbank financial company” under section 5311 of this title. The decision of the Council shall be final, subject to the review under paragraph (3).

(3) Review

If the Council denies an appeal under this subsection, the Council shall, not less frequently than annually, review and reevaluate the decision.

(Pub. L. 111-203, title I, §117, July 21, 2010, 124 Stat. 1406.)

Editorial Notes

REFERENCES IN TEXT

The Emergency Economic Stabilization Act of 2008, referred to in subsec. (a)(1)(B), is div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765, which is classified principally to chapter 52 (§5201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of this title and Tables.

§ 5328. Council funding

Any expenses of the Council shall be treated as expenses of, and paid by, the Office of Financial Research.

(Pub. L. 111-203, title I, §118, July 21, 2010, 124 Stat. 1408.)

§ 5329. Resolution of supervisory jurisdictional disputes among member agencies

(a) Request for Council recommendation

The Council shall seek to resolve a dispute among 2 or more member agencies, if—

(1) a member agency has a dispute with another member agency about the respective jurisdiction over a particular bank holding company, nonbank financial company, or financial activity or product (excluding matters for which another dispute mechanism specifically has been provided under title X);¹

(2) the Council determines that the disputing agencies cannot, after a demonstrated good faith effort, resolve the dispute without the intervention of the Council; and

(3) any of the member agencies involved in the dispute—

(A) provides all other disputants prior notice of the intent to request dispute resolution by the Council; and

(B) requests in writing, not earlier than 14 days after providing the notice described in subparagraph (A), that the Council seek to resolve the dispute.

(b) Council recommendation

The Council shall seek to resolve each dispute described in subsection (a)—

(1) within a reasonable time after receiving the dispute resolution request;

(2) after consideration of relevant information provided by each agency party to the dispute; and

(3) by agreeing with 1 of the disputants regarding the entirety of the matter, or by determining a compromise position.

(c) Form of recommendation

Any Council recommendation under this section shall—

(1) be in writing;

(2) include an explanation of the reasons therefor; and

(3) be approved by the affirmative vote of $\frac{2}{3}$ of the voting members of the Council then serving.

(d) Nonbinding effect

Any recommendation made by the Council under subsection (c) shall not be binding on the Federal agencies that are parties to the dispute.

(Pub. L. 111-203, title I, §119, July 21, 2010, 124 Stat. 1408.)

Editorial Notes

REFERENCES IN TEXT

Title X, referred to in subsec. (a)(1), is title X of Pub. L. 111-203, July 21, 2010, 124 Stat. 1955, known as the Consumer Financial Protection Act of 2010, which enacted subchapter V (§5481 et seq.) of this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of title X to the Code, see Short Title note set out under section 5301 of this title and Tables.

§ 5330. Additional standards applicable to activities or practices for financial stability purposes

(a) In general

The Council may provide for more stringent regulation of a financial activity by issuing recommendations to the primary financial regulatory agencies to apply new or heightened standards and safeguards, including standards enumerated in section 5325 of this title, for a financial activity or practice conducted by bank holding companies or nonbank financial companies under their respective jurisdictions, if the Council determines that the conduct, scope, nature, size, scale, concentration, or interconnectedness of such activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among bank holding companies and nonbank financial companies, financial markets of the United States, or low-income, minority, or underserved communities.

(b) Procedure for recommendations to regulators

(1) Notice and opportunity for comment

The Council shall consult with the primary financial regulatory agencies and provide notice to the public and opportunity for comment for any proposed recommendation that the primary financial regulatory agencies apply new or heightened standards and safeguards for a financial activity or practice.

(2) Criteria

The new or heightened standards and safeguards for a financial activity or practice recommended under paragraph (1)—

(A) shall take costs to long-term economic growth into account; and

¹ See References in Text note below.