

tions, critical markets, or the broader financial system; and

(B) the imminent risk of substantial harm precludes the Board of Governors' use of the procedures in subsection (e).

(2) Enforcement authority

For purposes of taking enforcement action under paragraph (1), a designated financial market utility shall be subject to, and the Board of Governors shall have authority under² the provisions of subsections (b) through (n) of section 1818 of this title in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(Pub. L. 111-203, title VIII, § 807, July 21, 2010, 124 Stat. 1814.)

§ 5467. Examination of and enforcement actions against financial institutions subject to standards for designated activities

(a) Examination

The appropriate financial regulator is authorized to examine a financial institution subject to the standards prescribed under section 5464(a) of this title for a designated activity in order to determine the following:

(1) The nature and scope of the designated activities engaged in by the financial institution.

(2) The financial and operational risks the designated activities engaged in by the financial institution may pose to the safety and soundness of the financial institution.

(3) The financial and operational risks the designated activities engaged in by the financial institution may pose to other financial institutions, critical markets, or the broader financial system.

(4) The resources available to and the capabilities of the financial institution to monitor and control the risks described in paragraphs (2) and (3).

(5) The financial institution's compliance with this subchapter and the rules and orders prescribed under section 5464(a) of this title.

(b) Enforcement

For purposes of enforcing the provisions of this subchapter, and the rules and orders prescribed under this section, a financial institution subject to the standards prescribed under section 5464(a) of this title for a designated activity shall be subject to, and the appropriate financial regulator shall have authority under¹ the provisions of subsections (b) through (n) of section 1818 of this title in the same manner and to the same extent as if the financial institution was an insured depository institution and the appropriate financial regulator was the appropriate Federal banking agency for such insured depository institution.

(c) Technical assistance

The Board of Governors shall consult with and provide such technical assistance as may be re-

quired by the appropriate financial regulators to ensure that the rules and orders prescribed under this subchapter are interpreted and applied in as consistent and uniform a manner as practicable.

(d) Delegation

(1) Examination

(A) Request to Board of Governors

The appropriate financial regulator may request the Board of Governors to conduct or participate in an examination of a financial institution subject to the standards prescribed under section 5464(a) of this title for a designated activity in order to assess the compliance of such financial institution with—

(i) this subchapter; or

(ii) the rules or orders prescribed under this subchapter.

(B) Examination by Board of Governors

Upon receipt of an appropriate written request, the Board of Governors will conduct the examination under such terms and conditions to which the Board of Governors and the appropriate financial regulator mutually agree.

(2) Enforcement

(A) Request to Board of Governors

The appropriate financial regulator may request the Board of Governors to enforce this subchapter or the rules or orders prescribed under this subchapter against a financial institution that is subject to the standards prescribed under section 5464(a) of this title for a designated activity.

(B) Enforcement by Board of Governors

Upon receipt of an appropriate written request, the Board of Governors shall determine whether an enforcement action is warranted, and, if so, it shall enforce compliance with this subchapter or the rules or orders prescribed under this subchapter and, if so, the financial institution shall be subject to, and the Board of Governors shall have authority under¹ the provisions of subsections (b) through (n) of section 1818 of this title in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(e) Back-up authority of the Board of Governors

(1) Examination and enforcement

Notwithstanding any other provision of law, the Board of Governors may—

(A) conduct an examination of the type described in subsection (a) of any financial institution that is subject to the standards prescribed under section 5464(a) of this title for a designated activity; and

(B) enforce the provisions of this subchapter or any rules or orders prescribed under this subchapter against any financial institution that is subject to the standards prescribed under section 5464(a) of this title for a designated activity.

² So in original. Probably should be followed by a comma.

¹ So in original. Probably should be followed by a comma.

(2) Limitations**(A) Examination**

The Board of Governors may exercise the authority described in paragraph (1)(A) only if the Board of Governors has—

(i) reasonable cause to believe that a financial institution is not in compliance with this subchapter or the rules or orders prescribed under this subchapter with respect to a designated activity;

(ii) notified, in writing, the appropriate financial regulator and the Council of its belief under clause (i) with supporting documentation included;

(iii) requested the appropriate financial regulator to conduct a prompt examination of the financial institution;

(iv) either—

(I) not been afforded a reasonable opportunity to participate in an examination of the financial institution by the appropriate financial regulator within 30 days after the date of the Board's notification under clause (ii); or

(II) reasonable cause to believe that the financial institution's noncompliance with this subchapter or the rules or orders prescribed under this subchapter poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors affording the appropriate financial regulator a reasonable opportunity to participate in the examination; and

(v) obtained the approval of the Council upon an affirmative vote by a majority of the Council.

(B) Enforcement

The Board of Governors may exercise the authority described in paragraph (1)(B) only if the Board of Governors has—

(i) reasonable cause to believe that a financial institution is not in compliance with this subchapter or the rules or orders prescribed under this subchapter with respect to a designated activity;

(ii) notified, in writing, the appropriate financial regulator and the Council of its belief under clause (i) with supporting documentation included and with a recommendation that the appropriate financial regulator take 1 or more specific enforcement actions against the financial institution;

(iii) either—

(I) not been notified, in writing, by the appropriate financial regulator of the commencement of an enforcement action recommended by the Board of Governors against the financial institution within 60 days from the date of the notification under clause (ii); or

(II) reasonable cause to believe that the financial institution's noncompliance with this subchapter or the rules or orders prescribed under this subchapter poses significant liquidity, credit, operational, or other risks to the financial

markets or to the financial stability of the United States, subject to the Board of Governors notifying the appropriate financial regulator of the Board's enforcement action; and

(iv) obtained the approval of the Council upon an affirmative vote by a majority of the Council.

(3) Enforcement provisions

For purposes of taking enforcement action under paragraph (1), the financial institution shall be subject to, and the Board of Governors shall have authority under¹ the provisions of subsections (b) through (n) of section 1818 of this title in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(Pub. L. 111-203, title VIII, § 808, July 21, 2010, 124 Stat. 1816.)

§ 5468. Requests for information, reports, or records**(a) Information to assess systemic importance****(1) Financial market utilities**

The Council is authorized to require any financial market utility to submit such information as the Council may require for the sole purpose of assessing whether that financial market utility is systemically important, but only if the Council has reasonable cause to believe that the financial market utility meets the standards for systemic importance set forth in section 5463 of this title.

(2) Financial institutions engaged in payment, clearing, or settlement activities

The Council is authorized to require any financial institution to submit such information as the Council may require for the sole purpose of assessing whether any payment, clearing, or settlement activity engaged in or supported by a financial institution is systemically important, but only if the Council has reasonable cause to believe that the activity meets the standards for systemic importance set forth in section 5463 of this title.

(b) Reporting after designation**(1) Designated financial market utilities**

The Board of Governors and the Council may each require a designated financial market utility to submit reports or data to the Board of Governors and the Council in such frequency and form as deemed necessary by the Board of Governors or the Council in order to assess the safety and soundness of the utility and the systemic risk that the utility's operations pose to the financial system.

(2) Financial institutions subject to standards for designated activities

The Board of Governors and the Council may each require 1 or more financial institutions subject to the standards prescribed under section 5464(a) of this title for a designated activity to submit, in such frequency and form as