

(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

deemed necessary by the Board of Governors or the Council, reports and data to the Board of Governors and the Council solely with respect to the conduct of the designated activity and solely to assess whether—

(A) the rules, orders, or standards prescribed under section 5464(a) of this title with respect to the designated activity appropriately address the risks to the financial system presented by such activity; and

(B) the financial institutions are in compliance with this subchapter and the rules and orders prescribed under section 5464(a) of this title with respect to the designated activity.

(3) Limitation

The Board of Governors may, upon an affirmative vote by a majority of the Council, prescribe regulations under this section that impose a recordkeeping or reporting requirement on designated clearing entities or financial institutions engaged in designated activities that are subject to standards that have been prescribed under section 5464(a)(2) of this title.

(c) Coordination with appropriate Federal Supervisory Agency

(1) Advance coordination

Before requesting any material information from, or imposing reporting or recordkeeping requirements on, any financial market utility or any financial institution engaged in a payment, clearing, or settlement activity, the Board of Governors or the Council shall coordinate with the Supervisory Agency for a financial market utility or the appropriate financial regulator for a financial institution to determine if the information is available from or may be obtained by the agency in the form, format, or detail required by the Board of Governors or the Council.

(2) Supervisory reports

Notwithstanding any other provision of law, the Supervisory Agency, the appropriate financial regulator, and the Board of Governors are authorized to disclose to each other and the Council copies of its examination reports or similar reports regarding any financial market utility or any financial institution engaged in payment, clearing, or settlement activities.

(d) Timing of response from appropriate Federal Supervisory Agency

If the information, report, records, or data requested by the Board of Governors or the Council under subsection (c)(1) are not provided in full by the Supervisory Agency or the appropriate financial regulator in less than 15 days after the date on which the material is requested, the Board of Governors or the Council may request the information or impose recordkeeping or reporting requirements directly on such persons as provided in subsections (a) and (b) with notice to the agency.

(e) Sharing of information

(1) Material concerns

Notwithstanding any other provision of law, the Board of Governors, the Council, the ap-

propriate financial regulator, and any Supervisory Agency are authorized to—

(A) promptly notify each other of material concerns about a designated financial market utility or any financial institution engaged in designated activities; and

(B) share appropriate reports, information, or data relating to such concerns.

(2) Other information

Notwithstanding any other provision of law, the Board of Governors, the Council, the appropriate financial regulator, or any Supervisory Agency may, under such terms and conditions as it deems appropriate, provide confidential supervisory information and other information obtained under this subchapter to each other, and to the Secretary, Federal Reserve Banks, State financial institution supervisory agencies, foreign financial supervisors, foreign central banks, and foreign finance ministries, subject to reasonable assurances of confidentiality, provided, however, that no person or entity receiving information pursuant to this section may disseminate such information to entities or persons other than those listed in this paragraph without complying with applicable law, including section 12 of title 7.

(f) Privilege maintained

The Board of Governors, the Council, the appropriate financial regulator, and any Supervisory Agency providing reports or data under this section shall not be deemed to have waived any privilege applicable to those reports or data, or any portion thereof, by providing the reports or data to the other party or by permitting the reports or data, or any copies thereof, to be used by the other party.

(g) Disclosure exemption

Information obtained by the Board of Governors, the Supervisory Agencies, or the Council under this section and any materials prepared by the Board of Governors, the Supervisory Agencies, or the Council regarding their assessment of the systemic importance of financial market utilities or any payment, clearing, or settlement activities engaged in by financial institutions, and in connection with their supervision of designated financial market utilities and designated activities, shall be confidential supervisory information exempt from disclosure under section 552 of title 5. For purposes of such section 552, this subsection shall be considered a statute described in subsection (b)(3) of such section 552.

(Pub. L. 111-203, title VIII, § 809, July 21, 2010, 124 Stat. 1818.)

§ 5469. Rulemaking

The Board of Governors, the Supervisory Agencies, and the Council are authorized to prescribe such rules and issue such orders as may be necessary to administer and carry out their respective authorities and duties granted under this subchapter and prevent evasions thereof.

(Pub. L. 111-203, title VIII, § 810, July 21, 2010, 124 Stat. 1820.)