

(ii) Prohibition of the offending individual from being a party to any agreement described in subsection (a) for a period of not to exceed 10 years.

(2) Designation of successor nongovernmental party

If an agreement described in subsection (a) is found to be unenforceable under this subsection, the appropriate Federal banking agency may assist the insured depository institution in identifying a successor nongovernmental party to assume the responsibilities of the agreement.

(3) Inadvertent or de minimis reporting errors

An error in a report filed under subsection (c) that is inadvertent or de minimis shall not subject the filing party to any penalty.

(g) Rule of construction

No provision of this section shall be construed as authorizing any appropriate Federal banking agency to enforce the provisions of any agreement described in subsection (a).

(h) Regulations

(1) In general

Each appropriate Federal banking agency shall prescribe regulations, in accordance with paragraph (4), requiring procedures reasonably designed to ensure and monitor compliance with the requirements of this section.

(2) Protection of parties

In carrying out paragraph (1), each appropriate Federal banking agency shall—

(A) ensure that the regulations prescribed by the agency do not impose an undue burden on the parties and that proprietary and confidential information is protected; and

(B) establish procedures to allow any nongovernmental entity or person who is a party to a large number of agreements described in subsection (a) to make a single or consolidated filing of a report under subsection (c) to an insured depository institution or an appropriate Federal banking agency.

(3) Parties not subject to reporting requirements

The Board of Governors of the Federal Reserve System may prescribe regulations—

(A) to prevent evasions of subsection (e)(1)(B)(iii); and

(B) to provide further exemptions under such subsection, consistent with the purposes of this section.

(4) Coordination, consistency, and comparability

In carrying out paragraph (1), each appropriate Federal banking agency shall consult and coordinate with the other such agencies for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency are consistent and comparable with the regulations prescribed by the other such agencies.

(Sept. 21, 1950, ch. 967, §2[48], as added Pub. L. 106-102, title VII, §711, Nov. 12, 1999, 113 Stat. 1465.)

Editorial Notes

REFERENCES IN TEXT

The Community Reinvestment Act of 1977, referred to in subsecs. (a) and (e)(1)(A), (B)(iii), is title VIII of Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1147, as amended, which is classified generally to chapter 30 (§2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

§ 1831z. Bi-annual FDIC survey and report on encouraging use of depository institutions by the unbanked

(a) Survey required

(1) In general

The Corporation shall conduct a bi-annual survey on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the “unbanked”) into the conventional finance system.

(2) Factors and questions to consider

In conducting the survey, the Corporation shall take the following factors and questions into account:

(A) To what extent do insured depository institutions promote financial education and financial literacy outreach?

(B) Which financial education efforts appear to be the most effective in bringing “unbanked” individuals and families into the conventional finance system?

(C) What efforts are insured institutions making at converting “unbanked” money order, wire transfer, and international remittance customers into conventional account holders?

(D) What cultural, language and identification issues as well as transaction costs appear to most prevent “unbanked” individuals from establishing conventional accounts?

(E) What is a fair estimate of the size and worth of the “unbanked” market in the United States?

(b) Reports

The Chairperson of the Board of Directors shall submit a bi-annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the Corporation’s findings and conclusions with respect to the survey conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.

(Sept. 21, 1950, ch. 967, §2[49], as added Pub. L. 109-173, §7, Feb. 15, 2006, 119 Stat. 3609.)

§ 1831aa. Enforcement of agreements

(a) In general

Notwithstanding clause (i) or (ii) of section 1818(b)(6)(A) of this title or section

1831o(e)(2)(E)(i) of this title, the appropriate Federal banking agency for a depository institution may enforce, under section 1818 of this title, the terms of—

- (1) any condition imposed in writing by the agency on the depository institution or an institution-affiliated party in connection with any action on any application, notice, or other request concerning the depository institution; or
- (2) any written agreement entered into between the agency and the depository institution or an institution-affiliated party.

(b) Receiverships and conservatorships

After the appointment of the Corporation as the receiver or conservator for a depository institution, the Corporation may enforce any condition or agreement described in paragraph (1) or (2) of subsection (a) imposed on or entered into with such institution or institution-affiliated party through an action brought in an appropriate United States district court.

(Sept. 21, 1950, ch. 967, §2[50], as added Pub. L. 109-351, title VII, §702(a), Oct. 13, 2006, 120 Stat. 1985.)

§ 1831bb. Capital requirements for certain acquisition, development, or construction loans

(a) In general

The appropriate Federal banking agencies may only require a depository institution to assign a heightened risk weight to a high volatility commercial real estate (HVCRE) exposure (as such term is defined under section 324.2 of title 12, Code of Federal Regulations, as of October 11, 2017, or if a successor regulation is in effect as of May 24, 2018, such term or any successor term contained in such successor regulation) under any risk-based capital requirement if such exposure is an HVCRE ADC loan.

(b) HVCRE ADC loan defined

For purposes of this section and with respect to a depository institution, the term “HVCRE ADC loan”—

- (1) means a credit facility secured by land or improved real property that, prior to being reclassified by the depository institution as a non-HVCRE ADC loan pursuant to subsection (d)—
 - (A) primarily finances, has financed, or refinances the acquisition, development, or construction of real property;
 - (B) has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and
 - (C) is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facility;
- (2) does not include a credit facility financing—
 - (A) the acquisition, development, or construction of properties that are—
 - (i) one- to four-family residential properties;
 - (ii) real property that would qualify as an investment in community development; or

(iii) agricultural land;

(B) the acquisition or refinancing of existing income-producing real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the institution’s applicable loan underwriting criteria for permanent financings;

(C) improvements to existing income-producing improved real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the institution’s applicable loan underwriting criteria for permanent financings; or

(D) commercial real property projects in which—

(i) the loan-to-value ratio is less than or equal to the applicable maximum supervisory loan-to-value ratio as determined by the appropriate Federal banking agency;

(ii) the borrower has contributed capital of at least 15 percent of the real property’s appraised, “as completed” value to the project in the form of—

- (I) cash;
- (II) unencumbered readily marketable assets;
- (III) paid development expenses out-of-pocket; or
- (IV) contributed real property or improvements; and

(iii) the borrower contributed the minimum amount of capital described under clause (ii) before the depository institution advances funds (other than the advance of a nominal sum made in order to secure the depository institution’s lien against the real property) under the credit facility, and such minimum amount of capital contributed by the borrower is contractually required to remain in the project until the credit facility has been reclassified by the depository institution as a non-HVCRE ADC loan under subsection (d);

(3) does not include any loan made prior to January 1, 2015; and

(4) does not include a credit facility reclassified as a non-HVCRE ADC loan under subsection (d).

(c) Value of contributed real property

For purposes of this section, the value of any real property contributed by a borrower as a capital contribution shall be the appraised value of the property as determined under standards prescribed pursuant to section 3339 of this title, in connection with the extension of the credit facility or loan to such borrower.

(d) Reclassification as a Non-HVCRE ADC loan

For purposes of this section and with respect to a credit facility and a depository institution, upon—

- (1) the substantial completion of the development or construction of the real property being financed by the credit facility; and