

commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

§ 4403. Bilateral netting

(a) General rule

Notwithstanding any other provision of State or Federal law (other than section 1821(e) of this title, section 5390(c) of this title, section 4617 of this title, section 1787(c) of this title, or any order authorized under section 78eee(b)(2) of title 15), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be terminated, liquidated, accelerated, and netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11).

(b) Limitation on obligation to make payment

The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) Limitation on right to receive payment

The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) Payment of net entitlement of failed financial institution

The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) Effectiveness notwithstanding status as financial institution

This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

(f) Enforceability of security agreements

The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than section 1821(e) of this title, section 1787(c) of this title, and section 78eee(b)(2) of title 15).

(Pub. L. 102-242, title IV, § 403, Dec. 19, 1991, 105 Stat. 2374; Pub. L. 109-8, title IX, § 906(b), Apr. 20,

2005, 119 Stat. 168; Pub. L. 109-390, § 4(a), Dec. 12, 2006, 120 Stat. 2695; Pub. L. 111-203, title II, § 211(c), July 21, 2010, 124 Stat. 1514.)

Editorial Notes

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203 inserted “section 5390(c) of this title, section 4617 of this title,” after “section 1821(e) of this title,”.

2006—Subsec. (a). Pub. L. 109-390 struck out “paragraphs (8)(E), (8)(F), and (10)(B) of” before “section 1821(e)” and “section 1787(c)” and inserted “terminated, liquidated, accelerated, and” after “institutions shall be”.

Subsec. (f). Pub. L. 109-390, § 4(a)(1), struck out “paragraphs (8)(E), (8)(F), and (10)(B) of” before “section 1821(e)” and “section 1787(c)”.

2005—Subsec. (a). Pub. L. 109-8, § 906(b)(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.”

Subsec. (f). Pub. L. 109-8, § 906(b)(2), added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-390 not applicable to any cases commenced under Title 11, Bankruptcy, or to appointments made under any Federal or State law, before Dec. 12, 2006, see section 7 of Pub. L. 109-390, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of Title 11.

§ 4404. Clearing organization netting

(a) General rule

Notwithstanding any other provision of State or Federal law (other than section 1821(e) of this title, section 1787(c) of this title, and any order authorized under section 78eee(b)(2) of title 15), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be terminated, liquidated, accelerated, and netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11).

(b) Limitation of obligation to make payment

The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.