

(d) Authority to require temporary increase**(1) In general**

Notwithstanding subsections (a) and (b) and any minimum capital level established pursuant to subsection (c), the Director may, by order, increase the minimum capital level for a regulated entity on a temporary basis, when the Director determines that such an increase is necessary and consistent with the prudential regulation and the safe and sound operations of a regulated entity.

(2) Rescission

The Director shall rescind any temporary minimum capital level established under paragraph (1) when the Director determines that the circumstances or facts no longer justify the temporary minimum capital level.

(3) Regulations required

The Director shall issue regulations establishing—

(A) standards for the imposition of a temporary increase in minimum capital under paragraph (1);

(B) the standards and procedures that the Director will use to make the determination referred to in paragraph (2); and

(C) a reasonable time frame for periodic review of any temporary increase in minimum capital for the purpose of making the determination referred to in paragraph (2).

(e) Authority to establish additional capital and reserve requirements for particular purposes

The Director may, at any time by order or regulation, establish such capital or reserve requirements with respect to any product or activity of a regulated entity, as the Director considers appropriate to ensure that the regulated entity operates in a safe and sound manner, with sufficient capital and reserves to support the risks that arise in the operations and management of the regulated entity.

(f) Periodic review

The Director shall periodically review the amount of core capital maintained by the enterprises, the amount of capital retained by the Federal Home Loan Banks, and the minimum capital levels established for such regulated entities pursuant to this section.

(Pub. L. 102-550, title XIII, § 1362, Oct. 28, 1992, 106 Stat. 3975; Pub. L. 110-289, div. A, title I, § 1111, July 30, 2008, 122 Stat. 2676.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, § 1111(1), substituted “Enterprises” for “In general” in heading.

Subsecs. (b) to (f). Pub. L. 110-289, § 1111(2), added subsecs. (b) to (f) and struck out former subsec. (b) which related to minimum capital level during transition period.

§ 4613. Critical capital levels**(a) Enterprises**

For purposes of this subchapter, the critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.25 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

(b) Federal Home Loan Banks**(1) In general**

For purposes of this subchapter, the critical capital level for each Federal Home Loan Bank shall be such amount of capital as the Director shall, by regulation, require.

(2) Consideration of other critical capital levels

In establishing the critical capital level under paragraph (1) for the Federal Home Loan Banks, the Director shall take due consideration of the critical capital level established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises.

(Pub. L. 102-550, title XIII, § 1363, Oct. 28, 1992, 106 Stat. 3976; Pub. L. 110-289, div. A, title I, § 1141(a), July 30, 2008, 122 Stat. 2730.)

Editorial Notes

AMENDMENTS

2008—Pub. L. 110-289 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 110-289, div. A, title I, § 1141(b), July 30, 2008, 122 Stat. 2730, provided that: “Not later than the expiration of the 180-day period beginning on the date of enactment of this Act [July 30, 2008], the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1363(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4613(b)] (as added by this section) establishing the critical capital level under such section.”

§ 4614. Capital classifications**(a) Enterprises**

For purposes of this subchapter, the Director shall classify the enterprises according to the following capital classifications:

(1) Adequately capitalized

An enterprise shall be classified as adequately capitalized if the enterprise—

(A) maintains an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise under section 4611 of this title; and