

Fifth. The fact that the certificate is made to enable such persons to avail themselves of the advantages of title 62 of the Revised Statutes.

(R.S. § 5134; Pub. L. 86-230, § 25, Sept. 8, 1959, 73 Stat. 466; Pub. L. 97-320, title IV, § 405(b), Oct. 15, 1982, 96 Stat. 1512.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in par. Fifth, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§ 5133 to 5244, which are classified to this section and sections 16, 21, 23 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§ 5133 to 5244 to the Code, see Tables.

CODIFICATION

R.S. § 5134 derived from act June 3, 1864, ch. 106, § 6, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1982—Par. First, Pub. L. 97-320 struck out "and be subject to the approval of the Comptroller of the Currency" after "national".

1959—Par. First, Pub. L. 86-230 substituted "which named shall include the word 'national' and be" for "which name shall be".

§ 23. Acknowledgment and filing of certificate

The organization certificate shall be acknowledged before a judge of some court of record, or notary public; and shall be, together with the acknowledgment thereof, authenticated by the seal of such court, or notary, transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office.

(R.S. § 5135.)

CODIFICATION

R.S. § 5135 derived from act June 3, 1864, ch. 106, § 6, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 24. Corporate powers of associations

Upon duly making and filing articles of association and an organization certificate a national banking association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

Second. To have succession from February 25, 1927, or from the date of its organization if organized after February 25, 1927, until such time as it be dissolved by the act of its shareholders owning two-thirds of its stock, or until its franchise becomes forfeited by reason of violation of law, or until terminated by either a general or a special Act of Congress or until its affairs be placed in the hands of a receiver and finally wound up by him.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law and equity, as fully as natural persons.

Fifth. To elect or appoint directors, and by its board of directors to appoint a president, vice president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places.

Sixth. To prescribe, by its board of directors, bylaws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of title 62 of the Revised Statutes. The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock; *Provided*, That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe. In no event shall the total amount of the investment securities of any one obligor or maker, held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, except that this limitation shall not require any association to dispose of any securities lawfully held by it on August 23, 1935. As used in this section the term "investment securities" shall mean marketable obligations, evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes and/or debentures commonly known as investment securities under such further definition of the term "investment securities" as may by regulation be prescribed by the Comptroller of the Currency. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation. The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for its own account, investment securities shall not apply to obligations of the United States, or general obligations of any State or of any political subdivision thereof, or obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of

1969, or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the thirteen banks for cooperatives or any of them or the Federal Home Loan Banks, or obligations which are insured by the Secretary of Housing and Urban Development under title XI of the National Housing Act [12 U.S.C. 1749aaa et seq.] or obligations which are insured by the Secretary of Housing and Urban Development (hereinafter in this sentence referred to as the "Secretary") pursuant to section 207 of the National Housing Act [12 U.S.C. 1713], if the debentures to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States, or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association, or the Government National Mortgage Association, or mortgages, obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455], or obligations of the Federal Financing Bank or obligations of the Environmental Financing Authority, or obligations or other instruments or securities of the Student Loan Marketing Association, or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949 [42 U.S.C. 1460(h)]) as are secured by an agreement between the local public agency and the Secretary in which the local public agency agrees to borrow from said Secretary, and said Secretary agrees to lend to said local public agency, monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]) as are secured (1) by an agreement between the public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the public housing agency, prior to the maturity of such obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary if such contract shall contain the covenant by the Secretary which is authorized by subsection (g) of section 6 of the United States Housing Act of 1937, as amended [42 U.S.C. 1437d(g)], and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 6(g) [42 U.S.C. 1437d(g)] shall not be less than the annual amount and the period for payment which are

requisite to provide for the payment when due of all installments of principal and interest on such obligations, or (3) by a pledge of both annual contributions under an annual contributions contract containing the covenant by the Secretary which is authorized by section 6(g) of the United States Housing Act of 1937 [42 U.S.C. 1437d(g)], and a loan under an agreement between the local public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the public housing agency, prior to the maturity of the obligations involved, moneys in an amount which (together with any other moneys irrevocably committed under the annual contributions contract to the payment of principal and interest on such obligations) will suffice to provide for the payment when due of all installments of principal and interest on such obligations, which moneys under the terms of the agreement are required to be used for the purpose of paying the principal and interest on such obligations at their maturity: *Provided*, That in carrying on the business commonly known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 per centum of the capital stock of the association actually paid in and unimpaired and 15 per centum of its unimpaired surplus. The limitations and restrictions herein contained as to dealing in and underwriting investment securities shall not apply to obligations issued by the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the Inter-American Development Bank¹ Bank for Economic Cooperation and Development in the Middle East and North Africa,² the North American Development Bank, the Asian Development Bank, the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation,² or obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes, which are at the time eligible for purchase by a national bank for its own account, nor to bonds, notes and other obligations issued by the Tennessee Valley Authority or by the United States Postal Service: *Provided*, That no association shall hold obligations issued by any of said organizations as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.], and may make investments in a partnership, limited partnership, or joint venture formed pursuant to

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

² So in original.

section 907(a) or 907(c) of that Act [42 U.S.C. 3937(a) or 3937(c)]. Notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock issued by any State housing corporation incorporated in the State in which the association is located and may make investments in loans and commitments for loans to any such corporation: *Provided*, That in no event shall the total amount of such stock held for its own account and such investments in loans and commitments made by the association exceed at any time 5 per centum of its capital stock actually paid in and unimpaired plus 5 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock. However, unless the association owns at least 80 per centum of the stock of such agricultural credit corporation the amount invested by the association at any one time in the stock of such corporation shall not exceed 20 per centum of the unimpaired capital and surplus of the association: *Provided further*, That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions or depository institution holding companies (as defined in section 1813 of this title) and such bank or company and all subsidiaries thereof are engaged exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a "banker's bank"), but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of the association's capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company. The limitations and restrictions contained in this paragraph as to an association purchasing for its own account investment securities shall not apply to securities that (A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); (B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(53)]); or (C) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)).³ The exception provided for the securities described in

³So in original. The period probably should be preceded by an additional closing parenthesis.

subparagraphs (A), (B), and (C) shall be subject to such regulations as the Comptroller of the Currency may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.

A national banking association may deal in, underwrite, and purchase for such association's own account qualified Canadian government obligations to the same extent that such association may deal in, underwrite, and purchase for such association's own account obligations of the United States or general obligations of any State or of any political subdivision thereof. For purposes of this paragraph—

(1) the term "qualified Canadian government obligations" means any debt obligation which is backed by Canada, any Province of Canada, or any political subdivision of any such Province to a degree which is comparable to the liability of the United States, any State, or any political subdivision thereof for any obligation which is backed by the full faith and credit of the United States, such State, or such political subdivision, and such term includes any debt obligation of any agent of Canada or any such Province or any political subdivision of such Province if—

(A) the obligation of the agent is assumed in such agent's capacity as agent for Canada or such Province or such political subdivision; and

(B) Canada, such Province, or such political subdivision on whose behalf such agent is acting with respect to such obligation is ultimately and unconditionally liable for such obligation; and

(2) the term "Province of Canada" means a Province of Canada and includes the Yukon Territory and the Northwest Territories and their successors.

In addition to the provisions in this paragraph for dealing in, underwriting, or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of title 26) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 1831o of this title).

Eighth. To contribute to community funds, or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, such sums as its board of directors may deem expedient and in the interests of the association, if it is located in a State the laws of which do not expressly prohibit State banking institutions from contributing to such funds or instrumentalities.

Ninth. To issue and sell securities which are guaranteed pursuant to section 1721(g) of this title.

Tenth. To invest in tangible personal property, including, without limitation, vehicles,

manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis, but such investment may not exceed 10 percent of the assets of the association.

Eleventh. To make investments directly or indirectly, each of which is designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 15 percent of the association's capital stock actually paid in and unimpaired and 15 percent of the association's unimpaired surplus fund. The foregoing standards and limitations apply to investments under this paragraph made by a national bank directly and by its subsidiaries.

(R.S. §5136; July 1, 1922, ch. 257, §1, 42 Stat. 767; Feb. 25, 1927, ch. 191, §2, 44 Stat. 1226; June 16, 1933, ch. 89, §16, 48 Stat. 184; Aug. 23, 1935, ch. 614, title III, §308, 49 Stat. 709; Feb. 3, 1938, ch. 13, §13, 52 Stat. 26; June 11, 1940, ch. 301, 54 Stat. 261; June 29, 1949, ch. 276, §1, 63 Stat. 298; July 15, 1949, ch. 338, title VI, §602(a), 63 Stat. 439; Apr. 9, 1952, ch. 169, 66 Stat. 49; Aug. 2, 1954, ch. 649, title II, §203, 68 Stat. 622; Aug. 23, 1954, ch. 834, §2, 68 Stat. 771; July 26, 1956, ch. 741, title II, §201(c), 70 Stat. 667; Pub. L. 86-137, §2, Aug. 6, 1959, 73 Stat. 285; Pub. L. 86-147, §10, Aug. 7, 1959, 73 Stat. 301; Pub. L. 86-230, §1(a), Sept. 8, 1959, 73 Stat. 457; Pub. L. 86-278, Sept. 16, 1959, 73 Stat. 563; Pub. L. 86-372, title IV, §420, Sept. 23, 1959, 73 Stat. 679; Pub. L. 88-560, title VII, §701(c), Sept. 2, 1964, 78 Stat. 800; Pub. L. 89-369, §10, Mar. 16, 1966, 80 Stat. 72; Pub. L. 89-754, title V, §504(a)(1), Nov. 3, 1966, 80 Stat. 1277; Pub. L. 90-19, §27(a), May 25, 1967, 81 Stat. 28; Pub. L. 90-448, title VIII, §804(c), 807(j), title IX, §911, title XVII, §1705(h), Aug. 1, 1968, 82 Stat. 543, 545, 550, 605; Pub. L. 91-375, §6(d), Aug. 12, 1970, 84 Stat. 776; Pub. L. 92-318, title I, §133(c)(1), June 23, 1972, 86 Stat. 269; Pub. L. 91-143, §12(b), Dec. 9, 1969, as added Pub. L. 92-349, title I, §101, July 13, 1972, 86 Stat. 466; Pub. L. 92-500, §12(n), Oct. 18, 1972, 86 Stat. 902; Pub. L. 93-100, §5(c), Aug. 16, 1973, 87 Stat. 344; Pub. L. 93-224, §14, Dec. 29, 1973, 87 Stat. 941; Pub. L. 93-234, title II, §207, Dec. 31, 1973, 87 Stat. 984; Pub. L. 93-383, title II, §206, title VIII, §805(c)(1), Aug. 22, 1974, 88 Stat. 668, 726; Pub. L. 96-221, title VII, §711, Mar. 31, 1980, 94 Stat. 189; Pub. L. 97-35, title XIII, §1342(a), Aug. 13, 1981, 95 Stat. 743; Pub. L. 97-320, title IV, §404(b), Oct. 15, 1982, 96 Stat. 1511; Pub. L. 97-457, §18, Jan. 12, 1983, 96 Stat. 2509; Pub. L. 98-440, title I, §105(c), Oct. 3, 1984, 98 Stat. 1691; Pub. L. 98-473, title I,

§101(1) [title I, §101], Oct. 12, 1984, 98 Stat. 1884, 1885; Pub. L. 100-86, title I, §108, Aug. 10, 1987, 101 Stat. 579; Pub. L. 100-449, title III, §308, Sept. 28, 1988, 102 Stat. 1877; Pub. L. 101-513, title V, §562(c)(10)(B), (e)(1)(B), Nov. 5, 1990, 104 Stat. 2036, 2037; Pub. L. 102-485, §6(a), Oct. 23, 1992, 106 Stat. 2774; Pub. L. 103-182, title V, §541(h)(1), Dec. 8, 1993, 107 Stat. 2167; Pub. L. 103-325, title II, §206(c), title III, §§322(a)(1), 347(b), Sept. 23, 1994, 108 Stat. 2199, 2226, 2241; Pub. L. 104-208, div. A, title I, §101(c) [title VII, §710(b)], title II, §2704(d)(7), Sept. 30, 1996, 110 Stat. 3009-121, 3009-181, 3009-489; Pub. L. 106-102, title I, §151, Nov. 12, 1999, 113 Stat. 1384; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §9(a), Feb. 15, 2006, 119 Stat. 3616; Pub. L. 109-351, title III, §305(a), Oct. 13, 2006, 120 Stat. 1970; Pub. L. 110-289, div. B, title V, §2503(a), July 30, 2008, 122 Stat. 2857.)

REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in par. Seventh, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22, 23, 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

Section 9 of the National Capital Transportation Act of 1969, referred to in par. Seventh, is section 9 of Pub. L. 91-143, as added by section 101 of title I of Pub. L. 92-349, July 13, 1972, 86 Stat. 464, which is not classified to the Code.

The Federal Farm Loan Act, referred to in par. Seventh, is act July 17, 1916, ch. 245, 39 Stat. 360, which was classified to section 641 et seq. of this title prior to its repeal by Pub. L. 92-181, §5.26(a), Dec. 10, 1971, 85 Stat. 624. See chapter 23 (§2001 et seq.) of this title.

The National Housing Act, referred to in par. Seventh, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title XI of the National Housing Act is title XI of act June 27, 1934, ch. 847, as added by act Nov. 3, 1966, Pub. L. 89-754, title V, §502(a), 80 Stat. 1274, which is classified generally to subchapter IX-B (§1749aaa et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

Section 110 of the Housing Act of 1949 [42 U.S.C. 1460], referred to in par. Seventh, was omitted from the Code pursuant to section 5316 of Title 42, The Public Health and Welfare, which terminated authority to make grants or loans under title I of that Act [42 U.S.C. 1450 et seq.] after Jan. 1, 1975.

The United States Housing Act of 1937, referred to in par. Seventh, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§1437 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Housing and Urban Development Act of 1968, referred to in par. Seventh, is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IX of the Housing and Urban Development Act is classified principally to chapter 49 (§3931 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 98-473 is based on section 211(a) of title II of S. 2416, as introduced in the Senate

on Mar. 13, 1984, which was enacted into permanent law by section 101(1) of Pub. L. 98-473.

R.S. § 5136 derived from act June 3, 1864, ch. 106, § 8, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2008—Par. Eleventh. Pub. L. 110-289, which directed substitution of “is designed primarily to promote the public welfare, including the welfare of” for “promotes the public welfare by benefitting primarily” in first sentence, was executed by making the substitution for “promotes the public welfare by benefitting primarily” to reflect the probable intent of Congress.

2006—Par. Eleventh. Pub. L. 109-351 amended par. generally. Prior to amendment, par. read as follows: “Eleventh. To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association’s investments in any 1 project and an association’s aggregate investments under this paragraph. An association’s aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association’s capital stock actually paid in and unimpaired and 5 percent of the association’s unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the Deposit Insurance Fund, and the association is adequately capitalized. In no case shall an association’s aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association’s capital stock actually paid in and unimpaired and 10 percent of the association’s unimpaired surplus fund.”

Pub. L. 109-173, in fifth sentence, substituted “Deposit Insurance Fund” for “affected deposit insurance fund”.

Pub. L. 109-171 repealed Pub. L. 104-208, § 2704(d)(7). See 1996 Amendment note below.

1999—Par. Seventh. Pub. L. 106-102 inserted at end “In addition to the provisions in this paragraph for dealing in, underwriting, or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank’s own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of title 26) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 1831o of this title).”

1996—Par. Seventh. Pub. L. 104-208, § 101(c) [§ 710(b)], in seventh sentence, inserted “Bank for Economic Cooperation and Development in the Middle East and North Africa,” after “the Inter-American Development Bank”.

Par. Eleventh. Pub. L. 104-208, § 2704(d)(7), which directed the amendment of the fifth sentence by substituting “Deposit Insurance Fund” for “affected deposit insurance fund”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1994—Par. Seventh. Pub. L. 103-325, § 347(b), in last sentence of first par., substituted “(15 U.S.C. 78c(a)(41)). The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations” for “(15 U.S.C. 78c(a)(41)), subject to such regulations”.

Pub. L. 103-325, § 322(a)(1)(A), in fifth proviso inserted “or depository institution holding companies (as de-

defined in section 1813 of this title)” after “(except to the extent directors’ qualifying shares are required by law) by depository institutions”.

Pub. L. 103-325, § 322(a)(1)(B), which directed substitution in fifth proviso of “services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a ‘banker’s bank’)” for “services for other depository institutions and their officers, directors and employees”, was executed by making the substitution for “services for other depository institutions and their officers, directors, and employees” to reflect the probable intent of Congress.

Pub. L. 103-325, § 206(c), substituted “(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage related securities” for “or (B) are mortgage related securities”.

1993—Par. Seventh. Pub. L. 103-182 inserted “the North American Development Bank,” after “Inter-American Development Bank.”.

1992—Par. Eleventh. Pub. L. 102-485 added par. Eleventh.

1990—Par. Seventh. Pub. L. 101-513 inserted “the European Bank for Reconstruction and Development,” before “the Inter-American Development Bank,” and substituted “the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation,” for “the African Development Bank or the Inter-American Investment Corporation.”.

1988—Par. Seventh. Pub. L. 100-449 inserted provisions authorizing national banking associations to deal in, underwrite, and purchase Canadian government obligations for the association’s own account.

1987—Par. Tenth. Pub. L. 100-86 added par. Tenth.

1984—Par. Seventh. Pub. L. 98-473 inserted reference to the Inter-American Investment Corporation.

Pub. L. 98-440 inserted provision that the limitations and restrictions contained in this paragraph as to an association purchasing investment securities for its own account shall not apply to securities offered and sold pursuant to section 15 U.S.C. 77d(5), or that are mortgage related securities (as defined in 15 U.S.C. 78c(a)(41)), subject to such regulations as the Comptroller of the Currency may prescribe.

1983—Par. Seventh. Pub. L. 97-457 substituted “10 per centum of the association’s” for “10 per centum of its” after “exceed at any time”.

1982—Par. Seventh. Pub. L. 97-320 substituted “*Provided further*, That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors’ qualifying shares are required by law) by depository institutions and such bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees, but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association’s acquiring more than 5 per centum of any class of voting securities of such bank or company” for “*Provided further*, That, notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association ex-

ceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank".

1981—Par. Seventh. Pub. L. 97-35 inserted reference to the African Development Bank.

1980—Par. Seventh. Pub. L. 96-221 inserted proviso relating to purchase of stock in bankers' banks.

1974—Par. Seventh. Pub. L. 93-383 substituted "section 6(g) of the United States Housing Act of 1937" for references to section 1421a(b) of title 42 wherever appearing, struck out "either" before "(1)", "(which obligations shall have a maturity of not more than eighteen months)" in cl. (1) and "or" before "(2)", added cl. (3), and inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title.

1973—Par. Seventh. Pub. L. 93-234 authorized investments by national banks in agricultural credit corporations.

Pub. L. 93-224 inserted "or obligations of the Federal Financing Bank" after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

Pub. L. 93-100 inserted provision that the association may purchase shares of stock issued by state housing corporations incorporated in the state in which the association is located and make investments in loans and commitments for loans to such corporations with certain limitations.

1972—Par. Seventh. Pub. L. 92-500 inserted "or obligations of the Environmental Financing Authority" after "Government National Mortgage Association".

Pub. L. 92-349 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969.

Pub. L. 92-318 included obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Par. Seventh. Pub. L. 91-375 made limitations and restrictions contained in this section as to dealing in and underwriting investment securities inapplicable to bonds, notes and other obligations issued by the United States Postal Service.

1968—Par. Seventh. Pub. L. 90-448, § 807(j), inserted "or the Government National Mortgage Association" after "Federal National Mortgage Association".

Pub. L. 90-448, § 911, authorized the association to purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to sections 3931-3940 of title 42, and to make investments in a partnership, limited partnership, or joint venture formed pursuant to section 3937(a) or 3937(c) of title 42.

Pub. L. 90-448, § 1705(h), included obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes.

Par. Ninth. Pub. L. 90-448, § 804(c), added par. Ninth.

1967—Par. Seventh. Pub. L. 90-19 substituted "Secretary of Housing and Urban Development (hereafter in this sentence referred to as the 'Secretary')" for "Federal Housing Administrator"; and "Secretary" for "Housing and Home Finance Administrator" after "local public agency and the", for "Administrator" in two instances just before "agrees to lend", and for "Public Housing Administration" wherever appearing in cls. (1) and (2), respectively.

1966—Par. Seventh. Pub. L. 89-754 made limitations and restrictions for dealing, underwriting, and purchasing for its own account of investment securities inapplicable to obligations which are insured by Secretary of Housing and Urban Development under provisions relating to mortgage insurance for group practice facilities.

Pub. L. 89-369 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Asian Development Bank.

1964—Par. Seventh. Pub. L. 88-560 substituted "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "or obligations of the Federal National Mortgage Association".

1959—Par. Seventh. Pub. L. 86-372 substituted "monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments" for "prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity" after "local public agency,".

Pub. L. 86-278 substituted "any" for "either" before "of said organizations" in last sentence.

Pub. L. 86-230 struck out "or the Home Owners' Loan Corporation" after "Federal Home Loan Banks".

Pub. L. 86-147 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Inter-American Development Bank.

Pub. L. 86-137 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to bonds, notes and other obligations issued by the Tennessee Valley Authority.

1959—Par. Seventh. Pub. L. 86-372 substituted "monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments" for "prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity" following "local public agency,".

Pub. L. 86-278 substituted "any" for "either" before "of said organizations" in last sentence.

Pub. L. 86-230 struck out "or the Home Owners' Loan Corporation" after "Federal Home Loan Banks".

Pub. L. 86-147 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Inter-American Development Bank.

Pub. L. 86-137 inserted provisions that limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to bonds, notes and other obligations issued by the Tennessee Valley Authority.

1956—Par. Seventh. Act July 26, 1956, removed restriction which prohibited a national bank from investing in obligations of the thirteen banks for cooperatives an amount exceeding 10 percent of its capital stock actually paid in and unimpaired and 10 percent of its unimpaired surplus.

1954—Par. Seventh. Act Aug. 23, 1954, substituted “thirteen banks for cooperatives organized under the Farm Credit Act of 1933, or any of them” for “Central Bank for Cooperatives” in last sentence.

Act Aug. 2, 1954, substituted “or obligations of the Federal National Mortgage Association” for “or obligations of national mortgage associations” in sixth sentence.

1952—Par. Seventh. Act Apr. 9, 1952, enabled national banks and State member banks of the Federal Reserve System to receive compensation in the distribution of debentures issued by the Central Bank for Cooperation.

1949—Par. Seventh. Act July 15, 1949, inserted, in next to last sentence, “or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949) as are secured by an agreement between the local public agency and the Housing and Home Finance Administrator in which the local public agency agrees to borrow from said Administrator, and said Administrator agrees to lend to said local public agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured either (1) by an agreement between the public housing agency and the Public Housing Administration in which the public housing agency agrees to borrow from the Public Housing Administration, and the Public Housing Administration agrees to lend to the public housing agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment, which are requisite to provide for the payment when due of all installments of principal and interest on such obligations”.

Act June 29, 1949, inserted last sentence to permit national banks and State member banks of the Federal Reserve System to deal in and underwrite obligations issued by the International Bank subject to certain limitations.

1940—Par. Eighth. Act June 11, 1940, added par. Eighth.

1938—Par. Seventh. Act Feb. 3, 1938, inserted “or obligations of national mortgage associations” in last sentence.

1935—Par. Seventh. Act Aug. 23, 1935, amended second, fourth, and last sentences.

1933—Act June 16, 1933, among other changes, struck out closing paragraph prohibiting transaction of any business by association prior to authorization by Comptroller, except that necessarily preliminary to organization.

1927—Act Feb. 25, 1927, struck out definite period of succession in par. Second, and inserted provisos in par. Seventh.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-173, §9(j), Feb. 15, 2006, 119 Stat. 3618, provided that: “This section [amending this section and sections 338a, 347b, 1431, 1441, 1441a, 1441b, 1464, 1467a, 1723i, 1735f-14, 1828a, 1833a, 1841, 1842, and 3341 of this title] and the amendments made by this section shall take effect on the day of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund [Mar. 31, 2006, see 71 F.R. 20524] pursuant to the Federal Deposit Insurance Reform Act of 2005 [subtitle B (§§ 2101-2109) of title II of Pub. L. 109-171, see Short Title of 2006 Amendment note set out under section 1811 of this title].”

Amendment by Pub. L. 109-171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109-171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-102, title I, §161, Nov. 12, 1999, 113 Stat. 1384, provided that: “This title [enacting sections 24a, 1820a, 1828a, 1828b, 1831v, 1831w, and 1848a of this title and section 6701 of Title 15, Commerce and Trade, amending this section, sections 25a, 335, 371c, 1821, 1835a, 1841 to 1844, 1849, 1850, 1864, 1971, 2903, 3101, 3106, and 3107 of this title, and section 18a of Title 15, repealing sections 78 and 377 of this title, and enacting provisions set out as notes under sections 252, 1843, and 4801 of this title and section 41 of Title 15] (other than section 104 [enacting section 6701 of Title 15]) and the amendments made by this title shall take effect 120 days after the date of the enactment of this Act [Nov. 12, 1999].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(7) of Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 347(d) of Pub. L. 103-325 provided that: “The amendments made by this section [amending this section and section 78c of Title 15, Commerce and Trade] shall become effective upon the date of promulgation of final regulations under subsection (c) [set out below].”

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1372 of Pub. L. 97-35, set out as an Effective Date note under section 290i of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-224 effective Dec. 29, 1973, see section 20 of Pub. L. 93-224, set out as an Effective Date note under section 2281 of this title.

Amendment by Pub. L. 93-100 effective Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as an Effective Date note under section 1469 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-375, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 26, 1956, effective Jan. 1, 1957, see section 202(a) of act July 26, 1956.

EFFECTIVE DATE OF 1933 AMENDMENT

Section 16 of act June 16, 1933, provided that restrictions of this section as to dealing in investment securities shall take effect one year after June 16, 1933.

REGULATIONS

Section 347(c) of Pub. L. 103-325 provided that: "Not later than 1 year after the date of enactment of this Act [Sept. 23, 1994], the Comptroller of the Currency shall promulgate final regulations, in accordance with the thirteenth sentence of Paragraph Seventh of section 5136 of the Revised Statutes [this section] (as amended by subsection (b)), to carry out the amendments made by this section [amending this section and section 78c of Title 15, Commerce and Trade]." [Final regulations implementing these amendments were published in the Federal Register on Dec. 2, 1996 [61 F.R. 63972], effective Dec. 31, 1996.]

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

ABOLITION OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of Home Owners' Loan Corporation, by act June 30, 1953, ch. 170, §21, 67 Stat. 126, see note set out under section 1463 of this title.

§ 24a. Financial subsidiaries of national banks**(a) Authorization to conduct in subsidiaries certain activities that are financial in nature****(1) In general**

Subject to paragraph (2), a national bank may control a financial subsidiary, or hold an interest in a financial subsidiary.

(2) Conditions and requirements

A national bank may control a financial subsidiary, or hold an interest in a financial subsidiary, only if—

(A) the financial subsidiary engages only in—

(i) activities that are financial in nature or incidental to a financial activity pursuant to subsection (b) of this section; and

(ii) activities that are permitted for national banks to engage in directly (subject to the same terms and conditions that govern the conduct of the activities by a national bank);

(B) the activities engaged in by the financial subsidiary as a principal do not include—

(i) insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (except to the extent permitted under section 302 or 303(c) of the Gramm-Leach-Bliley Act [15 U.S.C. 6712 or 6713(c)]) or providing or issuing annuities the income of which is subject to tax treatment under section 72 of title 26;

(ii) real estate development or real estate investment activities, unless otherwise expressly authorized by law; or

(iii) any activity permitted in subparagraph (H) or (I) of section 1843(k)(4) of this title, except activities described in section 1843(k)(4)(H) of this title that may be permitted in accordance with section 122 of the Gramm-Leach-Bliley Act;

(C) the national bank and each depository institution affiliate of the national bank are well capitalized and well managed;

(D) the aggregate consolidated total assets of all financial subsidiaries of the national bank do not exceed the lesser of—

(i) 45 percent of the consolidated total assets of the parent bank; or

(ii) \$50,000,000,000;

(E) except as provided in paragraph (4), the national bank meets any applicable rating or other requirement set forth in paragraph (3); and

(F) the national bank has received the approval of the Comptroller of the Currency for the financial subsidiary to engage in such activities, which approval shall be based solely upon the factors set forth in this section.

(3) Rating or comparable requirement**(A) In general**

A national bank meets the requirements of this paragraph if—

(i) the bank is 1 of the 50 largest insured banks and has not fewer than 1 issue of outstanding eligible debt that is currently rated within the 3 highest investment grade rating categories by a nationally recognized statistical rating organization; or

(ii) the bank is 1 of the second 50 largest insured banks and meets the criteria set forth in clause (i) or such other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish by regulation and determine to be comparable to and consistent with the purposes of the rating required in clause (i).

(B) Consolidated total assets

For purposes of this paragraph, the size of an insured bank shall be determined on the basis of the consolidated total assets of the bank as of the end of each calendar year.

(4) Financial agency subsidiary

The requirement in paragraph (2)(E) shall not apply with respect to the ownership or control of a financial subsidiary that engages in activities described in subsection (b)(1) of this section solely as agent and not directly or indirectly as principal.

(5) Regulations required

Before the end of the 270-day period beginning on November 12, 1999, the Comptroller of the Currency shall, by regulation, prescribe procedures to implement this section.

(6) Indexed asset limit

The dollar amount contained in paragraph (2)(D) shall be adjusted according to an index-