

July 21, 2010, the Federal Deposit Insurance Corporation would not approve an application for deposit insurance received after Nov. 23, 2009, for an industrial bank, a credit card bank, or a trust bank owned by a commercial firm and would disapprove, with certain exceptions, a change in control of such a bank that would result in control of the industrial bank, credit card bank, or trust bank by a commercial firm.

DEPOSIT OF FUNDS INTO DEPOSIT INSURANCE FUND

Pub. L. 109-173, §8(a)(4), Feb. 15, 2006, 119 Stat. 3610, provided in part that: “any funds resulting from the application of such paragraph (2) [of subsec. (d) of this section] prior to its repeal [see 2006 Amendment note above] shall be deposited into the general fund of the Deposit Insurance Fund”.

NEWLY INSURED THRIFT PROVISION

Pub. L. 101-73, title II, §206(b), Aug. 9, 1989, 103 Stat. 205, provided that: “Any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)(2)], as added by section 204(c) of this Act)—

“(1) which was an insured institution (as defined in section 401(a) of the National Housing Act [12 U.S.C. 1724(a)], as in effect before the date of the enactment of this Act [Aug. 9, 1989]) on the day before the date of the enactment of this Act;

“(2) the board of directors of which determined, before April 1, 1987, to terminate such association’s status as an insured institution (as so defined) as evidenced in sworn minutes of the board of directors meeting held before such date;

“(3) had insured deposits of less than \$11,000,000 on April 1, 1987; and

“(4) was an insured institution (as so defined) for less than 1 year as of April 1, 1987, may cease to be a Savings Association Insurance Fund member and become a Bank Insurance Fund member at any time during the 2-year period beginning on the date of the enactment of this Act without the approval of the Federal Deposit Insurance Corporation under section 5(d)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(2)] (as added by subsection (a) of this section) and without incurring any liability for any exit or entrance fee imposed under such section 5(d)(2).”

DEFINITION OF “COMMERCIAL FIRM”

Pub. L. 111-203, title VI, §602, July 21, 2010, 124 Stat. 1596, provided that: “For purposes of this title [see Short Title note set out under section 1811 of this title], a company is a ‘commercial firm’ if the annual gross revenues derived by the company and all of its affiliates from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956 [12 U.S.C. 1843(k)]) and, if applicable, from the ownership or control of one or more insured depository institutions, represent less than 15 percent of the consolidated annual gross revenues of the company.”

[For definitions of terms used in section 602 of Pub. L. 111-203, set out above, see section 5301 of this title.]

§ 1816. Factors to be considered

The factors that are required, under section 1814 of this title, to be considered in connection with, and enumerated in, any certificate issued pursuant to section 1814 of this title and that are required, under section 1815 of this title, to be considered by the Board of Directors in connection with any determination by such Board pursuant to section 1815 of this title are the following:

- (1) The financial history and condition of the depository institution.
- (2) The adequacy of the depository institution’s capital structure.
- (3) The future earnings prospects of the depository institution.

(4) The general character and fitness of the management of the depository institution.

(5) The risk presented by such depository institution to the Deposit Insurance Fund.

(6) The convenience and needs of the community to be served by such depository institution.

(7) Whether the depository institution’s corporate powers are consistent with the purposes of this chapter.

(Sept. 21, 1950, ch. 967, §2[6], 64 Stat. 876; Pub. L. 101-73, title II, §207, Aug. 9, 1989, 103 Stat. 206; Pub. L. 104-208, div. A, title II, §2704(d)(14)(F), Sept. 30, 1996, 110 Stat. 3009-491; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §8(a)(7), Feb. 15, 2006, 119 Stat. 3611.)

Editorial Notes

PRIOR PROVISIONS

Section is derived from subsec. (g) of former section 264 of this title. See Codification note set out under section 1811 of this title.

AMENDMENTS

2006—Par. (5). Pub. L. 109-173 substituted “Deposit Insurance Fund” for “Bank Insurance Fund or the Savings Association Insurance Fund”.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(14)(F). See 1996 Amendment note below.

1996—Par. (5). Pub. L. 104-208, §2704(d)(14)(F), which directed substitution of “Deposit Insurance Fund” for “Bank Insurance Fund or the Savings Association Insurance Fund”, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: “The factors to be enumerated in the certificate required under section 1814 of this title and to be considered by the Board of Directors under section 1815 of this title shall be the following: The financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purposes of this chapter.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 8(b) of Pub. L. 109-173, set out as a note under section 1813 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 1996 AMENDMENT

Amendment by 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.

§ 1817. Assessments

(a) Reports of condition; access to reports

(1) Each insured State nonmember bank and each foreign bank having an insured branch which is not a Federal branch shall make to the Corporation reports of condition which shall be