(c) Effect on agencies

This section does not impose an affirmative duty on the Attorney General, the Secretary of the Treasury, or the head of any agency or instrumentality of the United States to collect new or to review existing information.

(d) Definitions

For purposes of this section, the terms ''appropriate Federal banking agency'' and ''depository institution'' have the same meanings as in section 1818 of this title.

(Pub. L. 102–550, title XV, § 1542, Oct. 28, 1992, 106 Stat. 4067; Pub. L. 105–362, title X, § 1001(f), Nov. 10, 1998, 112 Stat. 3292.)

Editorial Notes

REFERENCES IN TEXT

Rule 6 of the Federal Rules of Criminal Procedure, referred to in subsec. (a)(2)(C)(ii), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

CODIFICATION

Section was enacted as part of the Annunzio-Wylie Anti-Money Laundering Act and also as part of the Housing and Community Development Act of 1992, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–362 struck out heading and text of subsec. (e). Text read as follows: ''The Attorney General and the Secretary of the Treasury shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the end of each calendar year on their utilization of the exceptions provided in subsection (a)(1)(B) of this section.''

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

§ 1831n. Accounting objectives, standards, and requirements

(a) In general

(1) Objectives

Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

(B) facilitate effective supervision of the institutions; and

(C) facilitate prompt corrective action to resolve the institutions at the least cost to the Deposit Insurance Fund.

(2) Standards

(A) Uniform accounting principles consistent with GAAP

Subject to the requirements of this chapter and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

(B) Stringency

If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

(3) Review and implementation of accounting principles required

Before the end of the 1-year period beginning on December 19, 1991, each appropriate Federal banking agency shall take the following actions:

(A) Review of accounting principles

Review—

(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

(ii) all requirements established by the agency with respect to such accounting procedures; and

(iii) the procedures and format for reports to the agency, including reports of condition.

(B) Modification of noncomplying measures

Modify or eliminate any accounting principle or reporting requirement of such Federal agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

(C) Inclusion of "off balance sheet" items

Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

(b) Uniform accounting of capital standards

(1) In general

Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.

(2) Transition provision

Any standards in effect on December 19, 1991, under section 1833d[1] of this title shall continue in effect after December 19, 1991, until amended by the appropriate Federal banking agency under paragraph (1).

(c) Reports to banking committees

(1) Annual reports required

The Federal banking agencies shall jointly submit an annual report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by any such agency and any accounting or capital standard used by any other agency.

(2) Explanation of reasons for discrepancy

Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by any such agency and any accounting or capital standard used by any other agency.

(3) Publication

Each report under this subsection shall be published in the Federal Register.

(Sept. 21, 1950, ch. 967, §2[37], as added Pub. L. 102–242, title I, §121(a), Dec. 19, 1991, 105 Stat. 2250; amended Pub. L. 106–569, title XII, §§1221, 1223, Dec. 27, 2000, 114 Stat. 3036; Pub. L. 109–173, §8(a)(35), Feb. 15, 2006, 119 Stat. 3615.)

Editorial Notes

REFERENCES IN TEXT

Section 1833d, referred to in subsec. (b)(2), was repealed by Pub. L. 102–242, title I, §121(b), Dec. 19, 1991, 105 Stat. 2251.

AMENDMENTS

2006—Subsec. (a)(1)(C). Pub. L. 109–173 substituted ''Deposit Insurance Fund'' for ''insurance funds''.

2000—Subsec. (a)(3)(D). Pub. L. 106–569, §1221, struck out heading and text of subpar. (D). Text read as follows: ''Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.''

Subsec. (c)(1). Pub. L. 106–569, §1223, substituted ''The Federal banking agencies shall jointly submit an annual report'' for ''Each appropriate Federal banking agency shall annually submit a report'' and inserted ''any'' before ''such agency''.

Subsec. (c)(2). Pub. L. 106–569, §1223(2), inserted ''any'' before ''such agency''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

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.

RISK-WEIGHTING OF HOUSING LOANS FOR PURPOSES OF CAPITAL REQUIREMENTS

Pub. L. 102–233, title VI, §618, Dec. 12, 1991, 105 Stat. 1789, provided that:

''(a) SINGLE FAMILY HOUSING LOANS.—

''(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

''(a)[(A)] IN GENERAL.—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act [probably means date of enactment, Dec. 12, 1991] each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under subparagraph (B) shall be considered as a loan within the 50 percent risk-weighted category.

''(B) REQUIREMENTS.—Subparagraph (A) shall apply to any construction loan—

''(i) made for the construction of a residence consisting of 1 to 4 dwelling units;

''(ii) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

''(I) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

''(II) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurance of the buyer's intent to purchase the property (including written commitments and letters of intent);

''(iii) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan obtained by the borrower for purchase of the residence, for use in defraying costs relating to any cancellation of the purchase contract of the buyer; and

''(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

''(2) 100 PERCENT RISK-WEIGHTED CLASSIFICATION.—Not later than the expiration of the 120-day period beginning on the date of this Act [Dec. 12, 1991] each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

''(A) any single family residence construction loan for a residence for which the purchase contract is canceled shall be considered as a loan within the 100 percent risk-weighted category; and

''(B) the lender of any single family residence construction loan shall promptly notify the appro-

[1] See References in Text note below.

priate Federal banking agency of any such cancellation.

''(b) MULTIFAMILY HOUSING LOANS.—

''(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

''(A) IN GENERAL.—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act [Dec. 12, 1991] each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under subparagraph (B) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

''(B) REQUIREMENTS.—Subparagraph (A) shall apply to any loan—

''(i) secured by a first lien on a residence consisting of more than 4 dwelling units;

''(ii) under which—

''(I) the rate of interest does not change over the term of the loan, (b) the principal obligation does not exceed 80 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

''(II) the rate of interest changes over the term of the loan, (b) the principal obligation does not exceed 75 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

''(iii) under which—

''(I) amortization of principal and interest occurs over a period of not more than 30 years;

''(II) the minimum maturity for repayment of principal is not less than 7 years; and

''(III) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and

''(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

''(2) SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.—Not later than the expiration of the 120-day period beginning on the date of this Act [Dec. 12, 1991], each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this paragraph, the term 'pro rata loss sharing arrangement' means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

''(3) SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 12, 1991], each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this paragraph, the term 'other loss sharing arrangement' means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

''(c) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this section, the term 'Federal banking agency' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.''

[Pub. L. 102–233, title VI, § 619, Dec. 12, 1991, 105 Stat. 1791, provided that: ''The amendments made by this title [amending section 1441a of this title and enacting provisions set out as notes under this section and section 1441a of this title] shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale entered into by the Corporation before the date of the enactment of this Act [Dec. 12, 1991].'']

§ 1831*o*. Prompt corrective action

(a) Resolving problems to protect Deposit Insurance Fund

(1) Purpose

The purpose of this section is to resolve the problems of insured depository institutions at the least possible long-term loss to the Deposit Insurance Fund.

(2) Prompt corrective action required

Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this chapter) shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

(b) Definitions

For purposes of this section:

(1) Capital categories

(A) Well capitalized

An insured depository institution is ''well capitalized'' if it significantly exceeds the required minimum level for each relevant capital measure.

(B) Adequately capitalized

An insured depository institution is ''adequately capitalized'' if it meets the required minimum level for each relevant capital measure.

(C) Undercapitalized

An insured depository institution is ''undercapitalized'' if it fails to meet the required minimum level for any relevant capital measure.

(D) Significantly undercapitalized

An insured depository institution is ''significantly undercapitalized'' if it is significantly below the required minimum level for any relevant capital measure.

(E) Critically undercapitalized

An insured depository institution is ''critically undercapitalized'' if it fails to meet any level specified under subsection (c)(3)(A).