

- (1) the Banks'—
- (A) cooperative ownership structure;
  - (B) the<sup>2</sup> mission of providing liquidity to members;
  - (C) affordable housing and community development mission;
  - (D) capital structure; and
  - (E) joint and several liability; and
- (2) any other differences that the Director considers appropriate.

(Pub. L. 102-550, title XIII, § 1313, Oct. 28, 1992, 106 Stat. 3945; Pub. L. 105-276, title II, § 202(b), Oct. 21, 1998, 112 Stat. 2483; Pub. L. 105-277, div. A, § 122, Oct. 21, 1998, 112 Stat. 2681-546; Pub. L. 110-289, div. A, title I, §§ 1102(a), 1118, title II, § 1201, July 30, 2008, 122 Stat. 2663, 2688, 2782.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsections (a)(1)(B)(iii), (iv) and (c), was in the original "this title", meaning title XIII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to this chapter. For complete classification of title XIII to the Code, see Short Title note set out under section 4501 of this title and Tables.

This Act, referred to in subsection (a)(3)(A), is Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3672, known as the Housing and Community Development Act of 1992. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

The Federal Rules of Civil Procedure, referred to in subsection (c)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

##### AMENDMENTS

2008—Pub. L. 110-289, § 1102(a), amended section generally. Prior to amendment, section consisted of subsections (a) to (e) relating to duty and authority of the Director of Office of Federal Housing Enterprise Oversight.

Subsec. (a)(3). Pub. L. 110-289, § 1118, added par. (3).

Subsec. (f). Pub. L. 110-289, § 1201, added subsec. (f).

1998—Subsec. (b)(9) to (12). Pub. L. 105-276, which directed the amendment of subsec. (b) by redesignating pars. (9) to (11) as (10) to (12), respectively, and adding a new par. (9) which read "default loss protection levels under section 1454(a)(2)(D) of this title;" was repealed by Pub. L. 105-277, effective upon enactment of Pub. L. 105-276.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-277, div. A, § 122, Oct. 21, 1998, 112 Stat. 2681-546, provided that the amendment made by section 122 is effective upon enactment of Pub. L. 105-276 (Oct. 21, 1998).

#### § 4513a. Federal Housing Finance Oversight Board

##### (a) In general

There is established the Federal Housing Finance Oversight Board, which shall advise the Director with respect to overall strategies and policies in carrying out the duties of the Director under this chapter.

##### (b) Limitations

The Board may not exercise any executive authority, and the Director may not delegate to

the Board any of the functions, powers, or duties of the Director.

##### (c) Composition

The Board shall be comprised of 4 members, of whom—

- (1) 1 member shall be the Secretary of the Treasury;
- (2) 1 member shall be the Secretary of Housing and Urban Development;
- (3) 1 member shall be the Chairman of the Securities and Exchange Commission; and
- (4) 1 member shall be the Director, who shall serve as the Chairperson of the Board.

##### (d) Meetings

###### (1) In general

The Board shall meet upon notice by the Director, but in no event shall the Board meet less frequently than once every 3 months.

###### (2) Special meetings

Either the Secretary of the Treasury, the Secretary of Housing and Urban Development, or the Chairman of the Securities and Exchange Commission may, upon giving written notice to the Director, require a special meeting of the Board.

##### (e) Testimony

On an annual basis, the Board shall testify before Congress regarding—

- (1) the safety and soundness of the regulated entities;
- (2) any material deficiencies in the conduct of the operations of the regulated entities;
- (3) the overall operational status of the regulated entities;
- (4) an evaluation of the performance of the regulated entities in carrying out their respective missions;
- (5) operations, resources, and performance of the Agency; and
- (6) such other matters relating to the Agency and its fulfillment of its mission, as the Board determines appropriate.

(Pub. L. 102-550, title XIII, § 1313A, as added Pub. L. 110-289, div. A, title I, § 1103(a), July 30, 2008, 122 Stat. 2665.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsection (a), was in the original "this title", meaning title XIII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to this chapter. For complete classification of title XIII to the Code, see Short Title note set out under section 4501 of this title and Tables.

#### § 4513b. Prudential management and operations standards

##### (a) Standards

The Director shall establish standards, by regulation or guideline, for each regulated entity relating to—

- (1) adequacy of internal controls and information systems taking into account the nature and scale of business operations;
- (2) independence and adequacy of internal audit systems;
- (3) management of interest rate risk exposure;

<sup>2</sup> So in original. The word "the" probably should not appear.

(4) management of market risk, including standards that provide for systems that accurately measure, monitor, and control market risks and, as warranted, that establish limitations on market risk;

(5) adequacy and maintenance of liquidity and reserves;

(6) management of asset and investment portfolio growth;

(7) investments and acquisitions of assets by a regulated entity, to ensure that they are consistent with the purposes of this chapter and the authorizing statutes;

(8) overall risk management processes, including adequacy of oversight by senior management and the board of directors and of processes and policies to identify, measure, monitor, and control material risks, including reputational risks, and for adequate, well-tested business resumption plans for all major systems with remote site facilities to protect against disruptive events;

(9) management of credit and counterparty risk, including systems to identify concentrations of credit risk and prudential limits to restrict exposure of the regulated entity to a single counterparty or groups of related counterparties;

(10) maintenance of adequate records, in accordance with consistent accounting policies and practices that enable the Director to evaluate the financial condition of the regulated entity; and

(11) such other operational and management standards as the Director determines to be appropriate.

**(b) Failure to meet standards**

**(1) Plan requirement**

**(A) In general**

If the Director determines that a regulated entity fails to meet any standard established under subsection (a)—

(i) if such standard is established by regulation, the Director shall require the regulated entity to submit an acceptable plan to the Director within the time allowed under subparagraph (C); and

(ii) if such standard is established by guideline, the Director may require the regulated entity to submit a plan described in clause (i).

**(B) Contents**

Any plan required under subparagraph (A) shall specify the actions that the regulated entity will take to correct the deficiency. If the regulated entity is undercapitalized, the plan may be a part of the capital restoration plan for the regulated entity under section 4622 of this title.

**(C) Deadlines for submission and review**

The Director shall by regulation establish deadlines that—

(i) provide the regulated entities with reasonable time to submit plans required under subparagraph (A), and generally require a regulated entity to submit a plan not later than 30 days after the Director determines that the entity fails to meet

any standard established under subsection (a); and

(ii) require the Director to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

**(2) Required order upon failure to submit or implement plan**

If a regulated entity fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the Director, the following shall apply:

**(A) Required correction of deficiency**

The Director shall, by order, require the regulated entity to correct the deficiency.

**(B) Other authority**

The Director may, by order, take one or more of the following actions until the deficiency is corrected:

(i) Prohibit the regulated entity from permitting its average total assets (as such term is defined in section 4516(b) of this title) during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the entity may increase from one calendar quarter to another.

(ii) Require the regulated entity—

(I) in the case of an enterprise, to increase its ratio of core capital to assets.

(II) in the case of a Federal Home Loan Bank, to increase its ratio of total capital (as such term is defined in section 1426(a)(5) of this title) to assets.

(iii) Require the regulated entity to take any other action that the Director determines will better carry out the purposes of this section than any of the actions described in this subparagraph.

**(3) Mandatory restrictions**

In complying with paragraph (2), the Director shall take one or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

(A) the Director determines that the regulated entity fails to meet any standard prescribed under subsection (a);

(B) the regulated entity has not corrected the deficiency; and

(C) during the 18-month period before the date on which the regulated entity first failed to meet the standard, the entity underwent extraordinary growth, as defined by the Director.

**(c) Other enforcement authority not affected**

The authority of the Director under this section is in addition to any other authority of the Director.

(Pub. L. 102-550, title XIII, §1313B, as added Pub. L. 110-289, div. A, title I, §1108, July 30, 2008, 122 Stat. 2672.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(7), was in the original "this title", meaning title XIII of Pub. L.

102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to this chapter. For complete classification of title XIII to the Code, see Short Title note set out under section 4501 of this title and Tables.

**§ 4514. Authority to require reports by regulated entities**

**(a) Regular and special reports**

**(1) Regular reports**

The Director may require, by general or specific orders, a regulated entity to submit regular reports, including financial statements determined on a fair value basis, on the condition (including financial condition), management, activities, or operations of the regulated entity, as the Director considers appropriate (in addition to the annual and quarterly reports required under section 1723a(k) of this title and section 1456(c) of this title).

**(2) Special reports**

The Director may also require, by general or specific orders, a regulated entity to submit special reports on any of the topics specified in paragraph (1) or any other relevant topics, if, in the judgment of the Director, such reports are necessary to carry out the purposes of this chapter.

**(3) Limitation**

The Director may not require the inclusion, in any report pursuant to paragraph (1) or (2), of any information that is not reasonably obtainable by the regulated entity.

**(4) Notice and declaration**

The Director shall notify the regulated entity, a reasonable period in advance of the date for submission of any report under this subsection, of any specific information to be contained in the report and the date for the submission of the report. Each report under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the regulated entity to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

**(b) Capital distributions**

The Director may require a regulated entity to submit a report to the Director after the declaration of any capital distribution by the regulated entity and before making the capital distribution. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.

**(c) Penalties for failure to make reports**

**(1) Violations**

It shall be a violation of this section for any regulated entity—

(A) to fail to make, transmit, or publish any report or obtain any information required by the Director under this section, section 1723a(k) of this title, section 1456(c) of this title, or section 1440 of this title, within the period of time specified in such provision of law or otherwise by the Director; or

(B) to submit or publish any false or misleading report or information under this section.

**(2) Penalties**

**(A) First tier**

**(i) In general**

A violation described in paragraph (1) shall be subject to a penalty of not more than \$2,000 for each day during which such violation continues, in any case in which—

(I) the subject regulated entity maintains procedures reasonably adapted to avoid any inadvertent error and the violation was unintentional and a result of such an error; or

(II) the violation was an inadvertent transmittal or publication of any report which was minimally late.

**(ii) Burden of proof**

For purposes of this subparagraph, the regulated entity shall have the burden of proving that the error was inadvertent or that a report was inadvertently transmitted or published late.

**(B) Second tier**

A violation described in paragraph (1) shall be subject to a penalty of not more than \$20,000 for each day during which such violation continues or such false or misleading information is not corrected, in any case that is not addressed in subparagraph (A) or (C).

**(C) Third tier**

A violation described in paragraph (1) shall be subject to a penalty of not more than \$1,000,000 per day for each day during which such violation continues or such false or misleading information is not corrected, in any case in which the subject regulated entity committed such violation knowingly or with reckless disregard for the accuracy of any such information or report.

**(3) Assessments**

Any penalty imposed under this subsection shall be in lieu of a penalty under section 4636 of this title, but shall be assessed and collected by the Director in the manner provided in section 4636 of this title for penalties imposed under that section, and any such assessment (including the determination of the amount of the penalty) shall be otherwise subject to the provisions of section 4636 of this title.

**(4) Hearing**

A regulated entity against which a penalty is assessed under this section shall be afforded an agency hearing if the regulated entity submits a request for a hearing not later than 20 days after the date of the issuance of the notice of assessment. Section 4634 of this title shall apply to any such proceedings.

(Pub. L. 102-550, title XIII, §1314, Oct. 28, 1992, 106 Stat. 3946; Pub. L. 110-289, div. A, title I, §1104(a), July 30, 2008, 122 Stat. 2666.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original "this title", meaning title XIII of Pub. L.