

ing agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host State, and

(ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) Considerations

In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider—

(A) whether the interstate branch or branches of the out-of-State bank were formerly part of a failed or failing depository institution;

(B) whether the interstate branch was acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(C) whether the interstate branch or branches of the out-of-State bank have a higher concentration of commercial or credit card lending, trust services, or other specialized activities;

(D) the ratings received by the out-of-State bank under the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.];

(E) economic conditions, including the level of loan demand, within the communities served by the interstate branch or branches of the out-of-State bank; and

(F) the safe and sound operation and condition of the out-of-State bank.

(3) Branch closing procedure

(A) Notice required

Before exercising any authority under paragraph (1)(B)(i), the appropriate Federal banking agency shall issue to the bank a notice of the agency's intention to close an interstate branch or branches and shall schedule a hearing.

(B) Hearing

Section 1818(h) of this title shall apply to any proceeding brought under this paragraph.

(d) Application

This section shall apply with respect to any interstate branch established or acquired in a host State pursuant to this title² or any amendment made by this title² to any other provision of law.

(e) Definitions

For the purposes of this section, the following definitions shall apply:

(1) Appropriate Federal banking agency, bank, State, and State bank

The terms "appropriate Federal banking agency", "bank", "State", and "State bank" have the same meanings as in section 1813 of this title.

(2) Home State

The term "home State" means—

(A) in the case of a national bank, the State in which the main office of the bank is located; and

(B) in the case of a State bank, the State by which the bank is chartered.

(3) Host State

The term "host State" means a State in which a bank establishes a branch other than the home State of the bank.

(4) Interstate branch

The term "interstate branch" means a branch established pursuant to this title² or any amendment made by this title² to any other provision of law.

(5) Out-of-State bank

The term "out-of-State bank" means, with respect to any State, a bank the home State of which is another State and, for purposes of this section, includes a foreign bank, the home State of which is another State.

(Pub. L. 103-328, title I, § 109, Sept. 29, 1994, 108 Stat. 2362.)

REFERENCES IN TEXT

This title, referred to in subsecs. (a), (d), and (e)(4), is title I of Pub. L. 103-328, Sept. 29, 1994, 108 Stat. 2339, which enacted this section and sections 43, 215a-1, and 1831u of this title, amended sections 30, 36, 215, 215a, 215b, 1462a, 1820, 1828, 1831a, 1831r-1, 1841, 1842, 1846, 2906, 3103 to 3105, and 3106a of this title and section 1927 of Title 7, Agriculture, enacted provisions set out as notes under sections 215, 1811, 1828, 3104, 3105, and 3107 of this title and section 1927 of Title 7, and amended provisions set out as a note under section 1811 of this title. For complete classification of this title to the Code, see Tables.

The Community Reinvestment Act of 1977, referred to in subsec. (c)(2)(D), is title VIII of Pub. L. 95-128, Oct. 12, 1977, 91 Stat. 1147, as amended, which is classified generally to chapter 30 (§ 2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

CHAPTER 17—BANK HOLDING COMPANIES

Sec.

1841.

1842.

Definitions.

Acquisition of bank shares or assets.

(a) Prior approval of Board as necessary; exceptions; disposition, time extension; subsequent approval or disposition upon disapproval.

(b) Application for approval; notice to Comptroller of Currency or State authority; views and recommendations; disapproval; hearing; order of Board; nonaction deemed grant of application; procedure in emergencies or probable failures requiring immediate Board action and orders.

(c) Factors for consideration by Board.

(d) Interstate banking.

(e) Insured depository institution.

² See References in Text note below.

- Sec.
1843. Interests in nonbanking organizations.
- (f) Savings bank subsidiaries of bank holding companies.
 - (g) Mutual bank holding company.
 - (a) Ownership or control of voting shares of any company not a bank; engagement in activities other than banking.
 - (b) Statement purporting to represent shares of any company except a bank or bank holding company.
 - (c) Exemptions.
 - (d) Exemption of company controlling one bank prior to July 1, 1968.
 - (e) Divestiture of nonexempt shares.
 - (f) Certain companies not treated as bank holding companies.
 - (g) Limitations on certain banks.
 - (h) Tying provisions.
 - (i) Acquisition of savings associations.
 - (j) Notice procedures for nonbanking activities.
1844. Administration.
- (a) Registration of bank holding company.
 - (b) Regulations and orders.
 - (c) Reports required by Board; examinations; cost of examination.
 - (d) Reports to the Congress; recommendations.
 - (e) Termination of activities or ownership or control of nonbank subsidiaries constituting serious risk.
 - (f) Powers of Board respecting applications, examinations, or other proceedings.
1845. Repealed.
1846. Reservation of rights to States.
- (a) In general.
 - (b) State taxation authority not affected.
1847. Penalties.
- (a) Criminal penalty.
 - (b) Civil money penalty.
 - (c) Notice under this section after separation from service.
 - (d) Penalty for failure to make reports.
1848. Judicial review.
1849. Saving provision.
- (a) General rule.
 - (b) Antitrust review.
 - (c) Antitrust proceedings; Board and State banking agency as party; representation by counsel.
 - (d) Treatment of merger transactions consummated prior or subsequent to May 9, 1956, and not in litigation prior to July 1, 1966.
 - (e) Antitrust litigation; substantive law applicable to proceedings pending on or after July 1, 1966, with respect to merger transactions.
 - (f) "Antitrust laws" defined.
1850. Acquisition of subsidiary, nonbanking activity or business, and tying arrangement; Federal Reserve Board proceedings; application for authorization; competitor as party in interest and person aggrieved; judicial review.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 304, 619, 1467a, 1817, 1818, 1831k, 3101, 3105, 3106 of this title; title 15 section 80b-2; title 26 section 246A.

§ 1841. Definitions

(a)(1) Except as provided in paragraph (5) of this subsection, "bank holding company" means any company which has control over any bank

or over any company that is or becomes a bank holding company by virtue of this chapter.

(2) Any company has control over a bank or over any company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the Board determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.

(3) For the purposes of any proceeding under paragraph (2)(C) of this subsection, there is a presumption that any company which directly or indirectly owns, controls, or has power to vote less than 5 per centum of any class of voting securities of a given bank or company does not have control over that bank or company.

(4) In any administrative or judicial proceeding under this chapter, other than a proceeding under paragraph (2)(C) of this subsection, a company may not be held to have had control over any given bank or company at any given time unless that company, at the time in question, directly or indirectly owned, controlled, or had power to vote 5 per centum or more of any class of voting securities of the bank or company, or had already been found to have control in a proceeding under paragraph (2)(C).

(5) Notwithstanding any other provision of this subsection—

(A) No bank and no company owning or controlling voting shares of a bank is a bank holding company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraphs (2) and (3) of subsection (g) of this section. For the purpose of the preceding sentence, bank shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto; except that this limitation is applicable in the case of a bank or company acquiring such shares prior to December 31, 1970, only if the bank or company has the right consistent with its obligations under the instrument, agreement, or other arrangement establishing the fiduciary relationship to divest itself of such voting rights and fails to exercise that right to divest within a reasonable period not to exceed one year after December 31, 1970.

(B) No company is a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis.

(C) No company formed for the sole purpose of participating in a proxy solicitation is a bank holding company by virtue of its control of voting rights of shares acquired in the course of such solicitation.

(D) No company is a bank holding company by virtue of its ownership or control of shares