§ 4243. Representation

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, private counsel retained under section 4241 of this title may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 4244 of this title.

(Pub. L. 101–647, title XXV, § 2590, Nov. 29, 1990, 104 Stat. 4906.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4243 of this title.

§ 4244. Contract provisions

A contract made with a private counsel under section 4241 of this title shall include—

(1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;

(2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating to matters handled pursuant to the contract during the preceding month and the progress made during that period; and

(3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

(Pub. L. 101–647, title XXV, § 2591, Nov. 29, 1990, 104 Stat. 4906.)

§ 4245. Counterclaims

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 4241 of this title may not be asserted unless the counterclaim has been served directly on the Attorney General and the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

(Pub. L. 101–647, title XXV, § 2592, Nov. 29, 1990, 104 Stat. 4906.)

§ 4246. Awards of costs and fees to prevailing plaintiff

When the United States, through private counsel retained under this subchapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees and other expenses of litigation as part of the costs.

(Pub. L. 101–647, title XXV, § 2593, Nov. 29, 1990, 104 Stat. 4906.)

§ 4247. Promulgation of regulations

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this subchapter.

(Pub. L. 101–647, title XXV, § 2594, Nov. 29, 1990, 104 Stat. 4906.)

CHAPTER 44—TRUTH IN SAVINGS

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§ 4301. Findings and purpose

(a) Findings

The Congress hereby finds that economic stability would be enhanced, competition between depository institutions would be improved, and the ability of the consumer to make informed decisions regarding deposit accounts, and to verify accounts, would be strengthened if there was

uniformity in the disclosure of terms and conditions on which interest is paid and fees are assessed in connection with such accounts.

(b) Purpose

It is the purpose of this chapter to require the clear and uniform disclosure of—

(1) the rates of interest which are payable on deposit accounts by depository institutions; and

(2) the fees that are assessable against deposit accounts,

so that consumers can make a meaningful comparison between the competing claims of depository institutions with regard to deposit accounts.

(Pub. L. 102–242, title II, § 262, Dec. 19, 1991, 105 Stat. 2334.)

SHORT TITLE

Section 261 of Pub. L. 102–242 provided that: ''This subtitle [subtitle F (§§ 261–274) of title II of Pub. L. 102–242, enacting this chapter] may be cited as the 'Truth in Savings Act'.''

SEPARABILITY

If any provision of Pub. L. 102–242 or any application of any provision thereof to any person or circumstance is held invalid, the remainder of Pub. L. 102–242 and the application of any remaining provision of such Act to any other person or circumstance not to be affected by such holding, see section 481 of Pub. L. 102–242, set out as a note under section 1811 of this title.

§ 4302. Disclosure of interest rates and terms of accounts

(a) In general

Except as provided in subsections (b) and (c) of this section, each advertisement, announcement, or solicitation initiated by any depository institution or deposit broker relating to any demand or interest-bearing account offered by an insured depository institution which includes any reference to a specific rate of interest payable on amounts deposited in such account, or to a specific yield or rate of earnings on amounts so deposited, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield.

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement that an interest penalty is required for early withdrawal.

(b) Broadcast and electronic media and outdoor advertising exception

The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) of this section if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) Disclosure required for on-premises displays

The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest which is displayed on the premises of the depository institution if such sign contains—

(1) the accompanying annual percentage yield; and

(2) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

(d) Misleading descriptions of free or no-cost accounts prohibited

No advertisement, announcement, or solicitation made by any depository institution or deposit broker may refer to or describe an account as a free or no-cost account (or words of similar meaning) if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions during such period may not exceed a maximum number; or

(2) any regular service or transaction fee is imposed.

(e) Misleading or inaccurate advertisements, etc., prohibited

No depository institution or deposit broker shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

(Pub. L. 102–242, title II, § 263, Dec. 19, 1991, 105 Stat. 2334; Pub. L. 102–550, title IX, § 957(a), Oct. 28, 1992, 106 Stat. 3896; Pub. L. 104–208, div. A, title II, § 2604(b), Sept. 30, 1996, 110 Stat. 3009–471.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–208 redesignated par. (1) as entire subsec. (c) and subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, and struck out former par. (1) heading and heading and text of former par. (2). Text of former par. (2) read as follows: ''For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution.''

1992—Subsec. (a). Pub. L. 102–550, § 957(a)(1), substituted ''subsections (b) and (c)'' for ''subsection (b)''.

Subsecs. (c) to (e). Pub. L. 102–550, § 957(a)(2), (3), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

§ 4303. Account schedule

(a) In general

Each depository institution shall maintain a schedule of fees, charges, interest rates, and terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) Information on fees and charges

The schedule required under subsection (a) of this section with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charge, or penalty (or the method by which such amount will be calculated), and the conditions under which any such amount will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each such minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) Information on interest rates

The schedule required under subsection (a) of this section with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any such annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1) through (4) with respect to any period after the end of the period referred to in paragraph (2) (or the method for computing any information described in any such paragraph), if applicable.

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how any such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) Other information

The schedule required under subsection (a) of this section shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) Style and format

Schedules required under subsection (a) of this section shall be written in clear and plain language and be presented in a format designed to allow consumers to readily understand the terms of the accounts offered.

(Pub. L. 102–242, title II, § 264, Dec. 19, 1991, 105 Stat. 2335.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4305 of this title.

§ 4304. Disclosure requirements for certain accounts

The Board shall require, in regulations which the Board shall prescribe, such modification in the disclosure requirements under this chapter relating to annual percentage yield as may be necessary to carry out the purposes of this chapter in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate;

(4) multiple rate accounts; and

(5) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a stated term.

(Pub. L. 102–242, title II, § 265, Dec. 19, 1991, 105 Stat. 2336; Pub. L. 102–550, title XVI, § 1604(e)(2)(A), Oct. 28, 1992, 106 Stat. 4084.)

AMENDMENTS

1992—Pub. L. 102–550 made technical amendment to references to ''this chapter'' wherever appearing to reflect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

§ 4305. Distribution of schedules

(a) In general

A schedule required under section 4303 of this title for an appropriate account shall be—

(1) made available to any person upon request;

(2) provided to any potential customer before an account is opened or a service is rendered; and

(3) provided to the depositor, in the case of any time deposit which has a maturity of more than 30 days[1] is renewable at maturity without notice from the depositor, at least 30 days before the date of maturity.

(b) Distribution in case of certain initial deposits

If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 4303(a) of this title has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account no later than 10 days after the date of the initial deposit.

(c) Distribution of notice of certain changes

If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 4303(a) of this title with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(d) Distribution in case of accounts established by more than 1 individual or by a group

If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

(e) Notice to account holders as of effective date of regulations

For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with the first regularly scheduled mailing sent after the end of the 6-month period beginning on the date of publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

(Pub. L. 102–242, title II, § 266, Dec. 19, 1991, 105 Stat. 2337; Pub. L. 102–550, title XVI, § 1604(e)(1), Oct. 28, 1992, 106 Stat. 4084; Pub. L. 104–208, div. A, title II, § 2604(d), Sept. 30, 1996, 110 Stat. 3009–471.)

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–208 inserted ''has a maturity of more than 30 days'' after ''deposit which''.

1992—Subsec. (e). Pub. L. 102–550 substituted ''on or with the first regularly scheduled mailing sent after the end of the 6-month period beginning on the date of publication'' for ''on or with any regularly scheduled mailing posted or delivered within 180 days after publication''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

[1] So in original. Probably should be followed by ''and''.

§ 4306. Payment of interest

(a) Calculated on full amount of principal

Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this chapter.

(b) No particular method of compounding interest required

Subsection (a) of this section shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting of interest.

(c) Date by which interest must accrue

Interest on accounts that are subject to this chapter shall begin to accrue not later than the business day specified for interest-bearing accounts in section 4005 of this title, subject to subsections (b) and (c) of such section.

(Pub. L. 102–242, title II, § 267, Dec. 19, 1991, 105 Stat. 2338; Pub. L. 102–550, title XVI, § 1604(e)(2)(B), (C), Oct. 28, 1992, 106 Stat. 4084.)

AMENDMENTS

1992—Subsecs. (a), (c). Pub. L. 102–550 made technical amendment to references to ''this chapter'' to reflect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

§ 4307. Periodic statements

Each depository institution shall include on or with each periodic statement provided to each account holder at such institution a clear and conspicuous disclosure of the following information with respect to such account:

(1) The annual percentage yield earned.

(2) The amount of interest earned.

(3) The amount of any fees or charges imposed.

(4) The number of days in the reporting period.

(Pub. L. 102–242, title II, § 268, Dec. 19, 1991, 105 Stat. 2338.)

§ 4308. Regulations

(a) In general

(1) Regulations required

Before the end of the 9-month period beginning on December 19, 1991, the Board, after

consultation with each agency referred to in section 4309(a) of this title and public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this chapter.

(2) Effective date of regulations

The regulations prescribed under paragraph (1) shall take effect not later than 9 months after publication in final form.

(3) Contents of regulations

The regulations prescribed under paragraph (1) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of accounts as, in the judgment of the Board, are necessary or proper to carry out the purposes of this chapter, to prevent circumvention or evasion of the requirements of this chapter, or to facilitate compliance with the requirements of this chapter.

(4) Date of applicability

The provisions of this chapter shall not apply with respect to any depository institution before the effective date of regulations prescribed by the Board under this subsection (or by the National Credit Union Administration Board under section 4311(b)[1] of this title, in the case of any depository institution described in clause (iv) of section 461(b)(1)(A) of this title).

(b) Model forms and clauses

(1) In general

The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this chapter. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) Use of forms and clauses deemed in compliance

Nothing in this chapter may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this chapter if the depository institution—

(A) uses any appropriate model form or clause as published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this chapter; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) Public notice and opportunity for comment

Model disclosure forms and clauses shall be adopted by the Board after duly given notice in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5.

[1] See References in Text note below.

(Pub. L. 102–242, title II, § 269, Dec. 19, 1991, 105 Stat. 2338; Pub. L. 102–550, title IX, § 957(b), title XVI, § 1604(e)(2)(D)–(H), Oct. 28, 1992, 106 Stat. 3897, 4084.)

REFERENCES IN TEXT

Section 4311(b) of this title, referred to in subsec. (a)(4), was in the original ''section 12(b)'', probably meaning section 12(b) of Pub. L. 102–242, and was translated as meaning section 272(b) of Pub. L. 102–242, to reflect the probable intent of Congress.

AMENDMENTS

1992—Pub. L. 102–550, § 1604(e)(2)(D)–(H), made technical amendment to references to ''this chapter'' wherever appearing to reflect correction of corresponding provision of original act.

Subsec. (a)(2). Pub. L. 102–550, § 957(b), substituted ''9 months'' for ''6 months''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 1604 of Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

§ 4309. Administrative enforcement

(a) In general

Compliance with the requirements imposed under this chapter shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818]—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act [12 U.S.C. 1813(q)]) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act [12 U.S.C. 1813(c)(2)]);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act [12 U.S.C. 461(b)(1)(A)] which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)(2)]); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act [12 U.S.C. 461(b)(1)(A)] which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)(2)]); and

(2) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act [12 U.S.C. 461(b)(1)(A)].

(b) Additional enforcement powers

(1) Violation of this chapter treated as violation of other Acts

For purposes of the exercise by any agency referred to in subsection (a) of this section of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this chapter shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other Acts

In addition to the powers of any agency referred to in subsection (a) of this section under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this chapter, any other authority conferred on such agency by law.

(c) Regulations by agencies other than the Board

The authority of the Board to issue regulations under this chapter does not impair the authority of any other agency referred to in subsection (a) of this section to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this chapter.

(Pub. L. 102–242, title II, § 270, Dec. 19, 1991, 105 Stat. 2339; Pub. L. 102–550, title XVI, § 1604(e)(2)(I)–(K), (3), (4), Oct. 28, 1992, 106 Stat. 4084.)

REFERENCES IN TEXT

The Federal Credit Union Act, referred to in subsec. (a)(2), is act June 26, 1934, ch. 750, 48 Stat. 1216, as amended, which is classified generally to chapter 14 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see section 1751 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–550 made technical amendment to references to ''this chapter'' wherever appearing to reflect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4308, 4310 of this title.

§ 4310. Civil liability

(a) Civil liability

Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this chapter or any regulation prescribed under this chapter with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) Class action awards

In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) Bona fide errors

(1) General rule

A depository institution may not be held liable in any action brought under this section for a violation of this chapter if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) Examples

Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this chapter is not a bona fide error.

(d) No liability for overpayment

A depository institution may not be held liable in any action under this section for a violation of this chapter if the violation has resulted in—

(1) an interest payment to the account holder in an amount greater than the amount determined under any disclosed rate of interest applicable with respect to such payment; or

(2) a charge to the consumer in an amount less than the amount determined under the disclosed charge or fee schedule applicable with respect to such charge.

(e) Jurisdiction

Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within 1 year after the date of the occurrence of the violation involved.

(f) Reliance on Board rulings

No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or order, or any interpretation of any regulation or order, of the Board, or in conformity with any interpretation or approval by an official or employee of the Board duly authorized by the

Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such regulation, order, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) Notification of and adjustment for errors

A depository institution shall not be liable under this section or section 4309 of this title for any failure to comply with any requirement imposed under this chapter with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(h) Multiple interests in 1 account

If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) of this section for any failure to comply with the requirements of this chapter shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(i) Continuing failure to disclose

(1) Certain continuing failures treated as 1 violation

Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this chapter with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) of this section for such failure to disclose.

(2) Subsequent failure to disclose

The continuing failure of any depository institution to disclose any particular term required to be disclosed under this chapter with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a) of this section.

(3) Coordination with section 4309 of this title

This subsection shall not limit or otherwise affect the enforcement power under section 4309 of this title of any agency referred to in subsection (a) of such section.

(Pub. L. 102–242, title II, § 271, Dec. 19, 1991, 105 Stat. 2340; Pub. L. 102–550, title XVI, § 1604(e)(2)(L)–(O), Oct. 28, 1992, 106 Stat. 4084.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title II, § 2604(a), Sept. 30, 1996, 110 Stat. 3009–470, provided that, effective as of the end of the 5-year period beginning Sept. 30, 1996, this section is repealed.

AMENDMENTS

1992—Subsecs. (a), (c), (d), (g) to (i)(2). Pub. L. 102–550 made technical amendment to references to ''this chapter'' wherever appearing to reflect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

§ 4311. Credit unions

(a) In general

No regulation prescribed by the Board under this chapter shall apply directly with respect to any depository institution described in clause (iv) of section 461(b)(1)(A) of this title.

(b) Regulations prescribed by NCUA

Within 90 days of the effective date of any regulation prescribed by the Board under this chapter, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

(Pub. L. 102–242, title II, § 272, Dec. 19, 1991, 105 Stat. 2342; Pub. L. 102–550, title XVI, § 1604(e)(2)(P), (Q), Oct. 28, 1992, 106 Stat. 4084.)

AMENDMENTS

1992—Pub. L. 102–550 made technical amendment to references to ''this chapter'' wherever appearing to reflect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4308 of this title.

§ 4312. Effect on State law

The provisions of this chapter do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this chapter, and then only to the extent of the inconsistency. The Board may determine whether such inconsistencies exist.

(Pub. L. 102–242, title II, § 273, Dec. 19, 1991, 105 Stat. 2342; Pub. L. 102–550, title XVI, § 1604(e)(2)(R), Oct. 28, 1992, 106 Stat. 4084.)

AMENDMENTS

1992—Pub. L. 102–550 made technical amendment to references to ''this chapter'' wherever appearing to reflect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

§ 4313. Definitions

For the purposes of this chapter—

(1) Account

The term ''account'' means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes that is offered by a depository institution into which a consumer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(2) Annual percentage yield

The term ''annual percentage yield'' means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) Annual rate of simple interest

The term ''annual rate of simple interest''—

(A) means the annualized rate of interest paid with respect to each compounding period, expressed as a percentage; and

(B) may be referred to as the ''annual percentage rate''.

(4) Board

The term ''Board'' means the Board of Governors of the Federal Reserve System.

(5) Deposit broker

The term ''deposit broker''—

(A) has the meaning given to such term in section 1831f(f)(1)[1] of this title; and

(B) includes any person who solicits any amount from any other person for deposit in an insured depository institution.

(6) Depository institution

The term ''depository institution'' has the meaning given such term in clauses (i) through (vi) of section 461(b)(1)(A) of this title, but does not include any nonautomated credit union that was not required to comply with the requirements of this chapter[1] as of September 30, 1996, pursuant to the determination of the National Credit Union Administration Board.

(7) Interest

The term ''interest'' includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(8) Multiple rate account

The term ''multiple rate account'' means any account that has 2 or more annual rates of simple interest which take effect at the same time or in succeeding periods and which are known at the time of disclosure.

(Pub. L. 102–242, title II, § 274, Dec. 19, 1991, 105 Stat. 2342; Pub. L. 102–550, title XVI, § 1604(e)(2)(S), Oct. 28, 1992, 106 Stat. 4084; Pub. L. 103–325, title III, § 332, Sept. 23, 1994, 108 Stat. 2232; Pub. L. 104–208, div. A, title II, § 2604(c), Sept. 30, 1996, 110 Stat. 3009–471.)

REFERENCES IN TEXT

Section 1831f(f)(1) of this title, referred to in par. (5)(A), was redesignated section 1831f(g)(1) of this title by Pub. L. 102–242, title III, § 301(a)(4), Dec. 19, 1991, 105 Stat. 2344.

This chapter, referred to in par. (6), was in the original ''this title'', and was translated as meaning ''this subtitle'', which is subtitle F of title II of Pub. L. 102–242, Dec. 19, 1991, 105 Stat. 2334, which enacted this chapter, to reflect the probable intent of Congress.

AMENDMENTS

1996—Par. (6). Pub. L. 104–208 inserted before period at end '', but does not include any nonautomated credit union that was not required to comply with the requirements of this chapter as of September 30, 1996, pursuant to the determination of the National Credit Union Administration Board''.

1994—Par. (1). Pub. L. 103–325 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The term 'account' means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.''

1992—Pub. L. 102–550 made technical amendment to reference to ''this chapter'' in introductory provisions to reflect correction of corresponding provision of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

CHAPTER 45—PAYMENT SYSTEM RISK REDUCTION

Sec.
4401. Findings and purpose.

[1] See References in Text note below.