

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration.

(Pub. L. 95-630, title II, §209, Nov. 10, 1978, 92 Stat. 3675; Pub. L. 103-325, title III, §338(b), Sept. 23, 1994, 108 Stat. 2236; Pub. L. 104-208, div. A, title II, §2210(c), Sept. 30, 1996, 110 Stat. 3009-410.)

AMENDMENTS

1996—Pub. L. 104-208 redesignated subsec. (a) as entire section, in introductory provisions, substituted “Regulations” for “Rules and regulations” and inserted “, including regulations that permit service by a management official that would otherwise be prohibited by section 3202 of this title or section 3203 of this title, if such service would not result in a monopoly or substantial lessening of competition,” after “chapter”, in par. (4), substituted “Director of the Office of Thrift Supervision” for “Federal Home Loan Bank Board” and “Federal Deposit Insurance Corporation” for “Federal Savings and Loan Insurance Corporation”, and struck out subsecs. (b) and (c), which related to regulatory standards, and to limited exception for management of official consignment program, respectively.

1994—Pub. L. 103-325 designated existing provisions as subsec. (a), inserted heading, struck out “, including rules or regulations which permit service by a management official which would otherwise be prohibited by section 3202 or section 3203 of this title,” after “Rules and regulations to carry out this chapter” in introductory provisions, and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3201 of this title.

§ 3208. Powers available to Attorney General for enforcement

(a) For the purpose of the exercise by the Attorney General of his enforcement functions under section 3206(6) of this title, all of the functions and powers of the Attorney General under the Clayton Act [15 U.S.C. 12 et seq.] are available to the Attorney General, irrespective of any jurisdictional tests in the Clayton Act, including the power to take enforcement actions in the same manner as if the violation had been a violation of the Clayton Act.

(b) All of the functions and powers of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice are available to the Attorney General or to such Assistant Attorney General to investigate possible violations under section 3206(6) of this title in the same manner as if such possible violations were possible violations of the Clayton Act [15 U.S.C. 12 et seq.].

(Pub. L. 95-630, title II, §210, as added Pub. L. 97-320, title IV, §426, Oct. 15, 1982, 96 Stat. 1524.)

REFERENCES IN TEXT

The Clayton Act, referred to in text, is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

CHAPTER 34—FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 4012a.

§ 3301. Declaration of purpose

It is the purpose of this chapter to establish a Financial Institutions Examination Council which shall prescribe uniform principles and standards for the Federal examination of financial institutions by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration and make recommendations to promote uniformity in the supervision of these financial institutions. The Council's actions shall be designed to promote consistency in such examination and to insure progressive and vigilant supervision.

(Pub. L. 95-630, title X, §1002, Nov. 10, 1978, 92 Stat. 3694.)

EFFECTIVE DATE

Chapter effective upon the expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95-630, set out as a note under section 375b of this title.

SHORT TITLE

Section 1001 of title X of Pub. L. 95-630 provided that: "This title [enacting this chapter and amending section 67 of former Title 31, Money and Finance] may be cited as the 'Federal Financial Institutions Examination Council Act of 1978'."

TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

§ 3302. Definitions

As used in this chapter—

(1) the term "Federal financial institutions regulatory agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration;

(2) the term "Council" means the Financial Institutions Examination Council; and

(3) the term "financial institution" means a commercial bank, a savings bank, a trust company, a savings association, a building and loan association, a homestead association, a cooperative bank, or a credit union;¹

(Pub. L. 95-630, title X, §1003, Nov. 10, 1978, 92 Stat. 3694; Pub. L. 101-73, title VII, §744(a)(1), Aug. 9, 1989, 103 Stat. 438.)

AMENDMENTS

1989—Par. (1). Pub. L. 101-73, §744(a)(1)(A), substituted "Office of Thrift Supervision" for "Federal Home Loan Bank Board".

Par. (3). Pub. L. 101-73, §744(a)(1)(B), substituted "savings association" for "savings and loan association".

§ 3303. Financial Institutions Examination Council**(a) Establishment; composition**

There is established the Financial Institutions Examination Council which shall consist of—

(1) the Comptroller of the Currency,

(2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation,

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board,

(4) the Director, Office of Thrift Supervision¹

(5) the Chairman of the National Credit Union Administration Board.

(b) Chairmanship

The members of the Council shall select the first chairman of the Council. Thereafter the chairmanship shall rotate among the members of the Council.

(c) Term of office

The term of the Chairman of the Council shall be two years.

(d) Designation of officers and employees

The members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

¹ So in original. The semicolon probably should be a period.

¹ So in original. Probably should be followed by " , and".

(e) Compensation and expenses

Each member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member.

(Pub. L. 95-630, title X, §1004, Nov. 10, 1978, 92 Stat. 3694; Pub. L. 101-73, title VII, §744(a)(2), Aug. 9, 1989, 103 Stat. 438.)

AMENDMENTS

1989—Subsec. (a)(4). Pub. L. 101-73 substituted "Director, Office of Thrift Supervision" for "Chairman of the Federal Home Loan Bank Board, and".

§ 3304. Costs and expenses of Council

One-fifth of the costs and expenses of the Council, including the salaries of its employees, shall be paid by each of the Federal financial institutions regulatory agencies. Annual assessments for such share shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

(Pub. L. 95-630, title X, §1005, Nov. 10, 1978, 92 Stat. 3695.)

§ 3305. Functions of Council**(a) Establishment of principles and standards**

The Council shall establish uniform principles and standards and report forms for the examination of financial institutions which shall be applied by the Federal financial institutions regulatory agencies.

(b) Making recommendations regarding supervisory matters and adequacy of supervisory tools

(1) The Council shall make recommendations for uniformity in other supervisory matters, such as, but not limited to, classifying loans subject to country risk, identifying financial institutions in need of special supervisory attention, and evaluating the soundness of large loans that are shared by two or more financial institutions. In addition, the Council shall make recommendations regarding the adequacy of supervisory tools for determining the impact of holding company operations on the financial institutions within the holding company and shall consider the ability of supervisory agencies to discover possible fraud or questionable and illegal payments and practices which might occur in the operation of financial institutions or their holding companies.

(2) When a recommendation of the Council is found unacceptable by one or more of the applicable Federal financial institutions regulatory agencies, the agency or agencies shall submit to the Council, within a time period specified by the Council, a written statement of the reasons the recommendation is unacceptable.

(c) Development of uniform reporting system

The Council shall develop uniform reporting systems for federally supervised financial institutions, their holding companies, and non-financial institution subsidiaries of such institutions or holding companies. The authority to develop uniform reporting systems shall not restrict or amend the requirements of section 78(i) of title 15.

(d) Conducting schools for examiners and assistant examiners

The Council shall conduct schools for examiners and assistant examiners employed by the Federal financial institutions regulatory agencies. Such schools shall be open to enrollment by employees of State financial institutions supervisory agencies and employees of the Federal Housing Finance Board under conditions specified by the Council.

(e) Affect on Federal regulatory agency research and development of new financial institutions supervisory agencies

Nothing in this chapter shall be construed to limit or discourage Federal regulatory agency research and development of new financial institutions supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal regulatory agency.

(f) Annual report

Not later than April 1 of each year, the Council shall prepare an annual report covering its activities during the preceding year.

(g) Flood insurance

The Council shall consult with and assist the Federal entities for lending regulation, as such term is defined in section 4121(a) of title 42, in developing and coordinating uniform standards and requirements for use by regulated lending institutions under the national flood insurance program.

(Pub. L. 95-630, title X, §1006, Nov. 10, 1978, 92 Stat. 3695; Pub. L. 97-320, title IV, §431, Oct. 15, 1982, 96 Stat. 1527; Pub. L. 101-73, title VII, §744(a)(3), Aug. 9, 1989, 103 Stat. 438; Pub. L. 103-325, title V, §530, Sept. 23, 1994, 108 Stat. 2267.)

AMENDMENTS

1994—Subsec. (g). Pub. L. 103-325 added subsec. (g).
1989—Subsec. (d). Pub. L. 101-73 inserted “and employees of the Federal Housing Finance Board” after “supervisory agencies”.

1982—Subsec. (b)(2). Pub. L. 97-320 substituted “unacceptable” for “unaccepted”.

REPORT ON CONSISTENT USE OF FINANCIAL TERMINOLOGY

Section 210 of Pub. L. 103-325 provided that: “Not later than 2 years after the date of enactment of this Act [Sept. 23, 1994], the Financial Institutions Examination Council shall report to the Congress on its recommendations for the use of consistent financial terminology by depository institutions for small business loans or leases of personal property which are sold for the creation of small business related securities (as defined in section 3(a)(53)(A) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(53)(A)]).”

EXAMINATION IMPROVEMENT PROGRAM

Pub. L. 102-242, title I, §111(d), Dec. 19, 1991, 105 Stat. 2241, provided that:

“(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program that meets the requirements of paragraph (2).

“(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

“(A) to periodically review the organization and training of the staff of the agency who are respon-

sible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

“(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.”

STUDY ON REGULATORY BURDEN

Pub. L. 102-242, title II, §221, Dec. 19, 1991, 105 Stat. 2305, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 19, 1991], the Federal Financial Institutions Examination Council, in consultation with individuals representing insured depository institutions, consumers, community groups, and other interested parties, shall—

“(1) review the policies and procedures, and record-keeping and documentation requirements used to monitor and enforce compliance with—

“(A) all laws under the jurisdiction of the Federal banking agencies; and

“(B) all laws affecting insured depository institutions under the jurisdiction of the Secretary of the Treasury;

“(2) determine whether such policies, procedures, and requirements impose unnecessary burdens on insured depository institutions; and

“(3) identify any revisions of such policies, procedures, and requirements that could reduce unnecessary burdens on insured depository institutions without in any respect—

“(A) diminishing either compliance with or enforcement of consumer laws in any respect; or

“(B) endangering the safety and soundness of insured depository institutions.

“(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Dec. 19, 1991], the Federal Financial Institutions Examination Council shall submit to the Congress a report describing the revisions identified under subsection (a)(3).

“(c) DEFINITIONS.—For purposes of this section, the terms ‘insured depository institution’ and ‘Federal banking agency’ have the same meanings as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].”

STUDY AND REPORT ASSESSING FEASIBILITY AND USEFULNESS OF DEPOSITORY INSTITUTIONS MAKING SMALL BUSINESS LOANS TO COMPILE AND DISCLOSE LOAN INFORMATION

Pub. L. 96-399, title III, §340(d), Oct. 8, 1980, 94 Stat. 1659, directed Federal Financial Institutions Examination Council, in consultation with Administrator of Small Business Administration, to conduct a study to assess feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans, and directed Council to submit a report on results of such study, together with recommendations, to Senate Committee on Banking, Housing, and Urban Affairs and House Committee on Banking, Finance and Urban Affairs not later than Mar. 1, 1981.

EVALUATION AND REPORT ON FEASIBILITY AND DESIRABILITY OF ESTABLISHING A UNIFIED SYSTEM FOR ENFORCING FAIR LENDING LAWS AND REGULATIONS

Pub. L. 96-399, title III, §340(e), Oct. 8, 1980, 94 Stat. 1659, directed Federal Financial Institutions Examination Council to transmit a report to Congress not later than Sept. 30, 1982, on feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.], and satisfying public disclosure purposes of Home Mortgage Disclosure Act of 1975 [12 U.S.C. 2801 et seq.], such report

to evaluate status and effectiveness of data collection and analysis systems of such agencies involving fair lending and community reinvestment, and to outline possible specific timetables for implementing such a unified system.

§ 3306. State liaison

To encourage the application of uniform examination principles and standards by State and Federal supervisory agencies, the Council shall establish a liaison committee composed of five representatives of State agencies which supervise financial institutions which shall meet at least twice a year with the Council. Members of the liaison committee shall receive a reasonable allowance for necessary expenses incurred in attending meetings.

(Pub. L. 95-630, title X, §1007, Nov. 10, 1978, 92 Stat. 3696.)

§ 3307. Administration

(a) Authority of Chairman of Council

The Chairman of the Council is authorized to carry out and to delegate the authority to carry out the internal administration of the Council, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) Use of personnel, services, and facilities of Federal financial institutions regulatory agencies, Federal Reserve banks, and Federal Home Loan Banks

in¹ addition to any other authority conferred upon it by this chapter, in carrying out its functions under this chapter, the Council may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal financial institutions regulatory agencies, Federal Reserve banks, and Federal Home Loan Banks, with or without reimbursement therefor.

(c) Compensation, authority, and duties of officers and employees; experts and consultants

In addition, the Council may—

(1) subject to the provisions of title 5 relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this chapter, and to prescribe the authority and duties of such officers and employees; and

(2) obtain the services of such experts and consultants as are necessary to carry out the provisions of this chapter.

(Pub. L. 95-630, title X, §1008, Nov. 10, 1978, 92 Stat. 3696.)

REFERENCES IN TEXT

The provisions of title 5 relating to the competitive service, referred to in subsec. (c), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The provisions of title 5 relating to classification, referred to in subsec. (c), are classified generally to chapter 51 (§5101 et seq.) and to subchapter III (§531 et seq.) of chapter 53 of Title 5.

¹ So in original. Probably should be capitalized.

The provisions of title 5 relating to General Schedule pay rates, referred to in subsec. (c), are set out under section 5332 of Title 5.

§ 3308. Access to books, accounts, records, etc., by Council

For the purpose of carrying out this chapter, the Council shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal financial institutions regulatory agencies, including reports of examination of financial institutions or their holding companies from whatever source, together with workpapers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

(Pub. L. 95-630, title X, §1009, Nov. 10, 1978, 92 Stat. 3696.)

§ 3309. Risk management training

(a) Seminars

The Council shall develop and administer training seminars in risk management for its employees and the employees of insured financial institutions.

(b) Study of risk management training program

Not later than end of the 1-year period beginning on August 9, 1989, the Council shall—

(1) conduct a study on the feasibility and appropriateness of establishing a formalized risk management training program designed to lead to the certification of Risk Management Analysts; and

(2) report to the Congress the results of such study.

(Pub. L. 95-630, title X, §1009A, as added Pub. L. 101-73, title XII, §1218, Aug. 9, 1989, 103 Stat. 546.)

§ 3310. Establishment of Appraisal Subcommittee

There shall be within the Council a subcommittee to be known as the "Appraisal Subcommittee", which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.

(Pub. L. 95-630, title X, §1011, as added Pub. L. 101-73, title XI, §1102, Aug. 9, 1989, 103 Stat. 511.)

§ 3311. Required review of regulations

(a) In general

Not less frequently than once every 10 years, the Council and each appropriate Federal banking agency represented on the Council shall conduct a review of all regulations prescribed by the Council or by any such appropriate Federal banking agency, respectively, in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions.

(b) Process

In conducting the review under subsection (a) of this section, the Council or the appropriate Federal banking agency shall—

(1) categorize the regulations described in subsection (a) of this section by type (such as

consumer regulations, safety and soundness regulations, or such other designations as determined by the Council, or the appropriate Federal banking agency); and

(2) at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome.

(c) Complete review

The Council or the appropriate Federal banking agency shall ensure that the notice and comment period described in subsection (b)(2) of this section is conducted with respect to all regulations described in subsection (a) of this section not less frequently than once every 10 years.

(d) Regulatory response

The Council or the appropriate Federal banking agency shall—

(1) publish in the Federal Register a summary of the comments received under this section, identifying significant issues raised and providing comment on such issues; and

(2) eliminate unnecessary regulations to the extent that such action is appropriate.

(e) Report to Congress

Not later than 30 days after carrying out subsection (d)(1) of this section, the Council shall submit to the Congress a report, which shall include—

(1) a summary of any significant issues raised by public comments received by the Council and the appropriate Federal banking agencies under this section and the relative merits of such issues; and

(2) an analysis of whether the appropriate Federal banking agency involved is able to address the regulatory burdens associated with such issues by regulation, or whether such burdens must be addressed by legislative action.

(Pub. L. 104-208, div. A, title II, §2222, Sept. 30, 1996, 110 Stat. 3009-414.)

CODIFICATION

Section enacted as part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Federal Financial Institutions Examination Council Act of 1978 which comprises this chapter.

CHAPTER 34A—APPRAISAL SUBCOMMITTEE OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

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3333.	Chairperson of Appraisal Subcommittee; term of Chairperson; meetings. (a) Chairperson. (b) Meetings; quorum; voting.
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3342.	Transactions requiring services of State certified appraiser.
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3345.	Certification and licensing requirements. (a) In general. (b) Restriction. (c) "State licensed appraiser" defined. (d) Additional qualification criteria. (e) Authority of Appraisal Subcommittee.
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3349.	Violations in obtaining and performing appraisals in federally related transactions. (a) Violations. (b) Penalties. (c) Proceeding.
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3352.	Emergency exceptions for disaster areas. (a) In general. (b) 3-year limit on exceptions. (c) Publication required. (d) "Disaster area" defined.

§ 3331. Purpose

The purpose of this chapter is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related