SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4513, 4514, 4543, 4544, 4546, 4581, 4585, 4631, 4636 of this title.

§ 1457. Prohibited activities; penalties for violations by organizations, officers and members of organizations, and individuals

Except as expressly authorized by statute of the United States, no individual or organization (except the Corporation) shall use the term ''Federal Home Loan Mortgage Corporation'', or any combination of words including the words ''Federal'', and ''Home Loan'', and ''Mortgage'', as a name or part thereof under which any individual or organization does any business, but this sentence shall not make unlawful the use of any name under which business is being done on July 24, 1970. No individual or organization shall use or display (1) any sign, device, or insigne prescribed or approved by the Corporation for use or display by the Corporation or by members of the Federal home loan banks, (2) any copy, reproduction, or colorable imitation of any such sign, device, or insigne, or (3) any sign, device, or insigne reasonably calculated to convey the impression that it is a sign, device, or insigne used by the Corporation or prescribed or approved by the Corporation, contrary to regulations of the Corporation prohibiting, or limiting or restricting, such use or display by such individual or organization. An organization violating this subsection shall for each violation be punished by a fine of not more than $10,000. An officer or member of an organization participating or knowingly acquiescing in any violation of this subsection shall be punished by a fine of not more than $5,000 or imprisonment for not more than one year, or both. An individual violating this subsection shall for each violation be punished as set forth in the sentence next preceding this sentence.

(Pub. L. 91–351, title III, § 308, July 24, 1970, 84 Stat. 456; Pub. L. 98–479, title II, § 204(h), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 101–73, title VII, § 731(k), Aug. 9, 1989, 103 Stat. 435.)

AMENDMENTS

1989—Pub. L. 101–73 struck out subsection (a) designation before ''Except as expressly'', and struck out subsecs. (b) to (f) relating to applicability of criminal provisions of title 18, and defining terms construing such applicability.

1984—Subsec. (f). Pub. L. 98–479 substituted ''United States'' for ''United States Code'' before '', except in a territorial sense''.

§ 1458. Territorial applicability

Notwithstanding any other law, this chapter shall be applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(Pub. L. 91–351, title III, § 309, July 24, 1970, 84 Stat. 457.)

§ 1459. Separability

Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Pub. L. 91–351, title III, § 310, July 24, 1970, 84 Stat. 457; Pub. L. 101–73, title VII, § 731(*l*), Aug. 9, 1989, 103 Stat. 435.)

AMENDMENTS

1989—Pub. L. 101–73 amended section catchline and struck out first sentence which read as follows: ''Except as otherwise provided in this chapter, or as otherwise provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of provisions of this chapter, the powers and functions of the Corporation and of the Board of Directors shall be exercisable, and the provisions of this chapter shall be applicable and effective, without regard to any other law.''

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1441a, 1831k, 1843, 3204, 3401 of this title; title 18 section 433; title 41 section 22.

§ 1461. Short title

This chapter may be cited as the ''Home Owners' Loan Act.''

(June 13, 1933, ch. 64, § 1, 48 Stat. 128; Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 277.)

AMENDMENTS

1989—Pub. L. 101–73 amended section generally, striking out ''of 1933'' after ''Act''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 305(c) of Pub. L. 101–73 provided that: ''The amendments made by section 301 [amending this chapter] relating to civil penalties shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act [Aug. 9, 1989], except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities—

''(1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and

''(2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) occurring before the date of the enactment of this Act.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–164, § 1, Mar. 20, 1998, 112 Stat. 32, provided that: ''This Act [enacting section 1786a of this title, amending sections 1464 and 1818 of this title, and enacting provisions set out as a note under section 1811 of this title] may be cited as the 'Examination Parity and Year 2000 Readiness for Financial Institutions Act'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–242, title IV, § 436, Dec. 19, 1991, 105 Stat. 2381, provided that: ''This subtitle [subtitle G (§§ 436–441) of title IV of Pub. L. 102–242, amending sections 1464 and 1467a of this title] may be cited as the 'Qualified Thrift Lender Reform Act of 1991'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–320, title III, § 301, Oct. 15, 1982, 96 Stat. 1496, provided that: ''This title [enacting section 1701j–3 of this title, amending sections 1425a, 1426, 1428a, 1430, 1464, 1725, 1730a, 1841, and 3503 of this title, enacting provisions set out as a note under section 3503 of this title, and repealing provisions set out as a note under section 461 of this title] may be cited as the 'Thrift Institutions Restructuring Act'.''

§ 1462. Definitions

For purposes of this chapter—

(1) Director

The term ''Director'' means the Director of the Office of Thrift Supervision.

(2) Corporation

The term ''Corporation'' means the Federal Deposit Insurance Corporation.

(3) Office

The term ''Office'' means the Office of Thrift Supervision.

(4) Savings association

The term ''savings association'' means a savings association, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813], the deposits of which are insured by the Corporation.

(5) Federal savings association

The term ''Federal savings association'' means a Federal savings association or a Fed-

eral savings bank chartered under section 1464 of this title.

(6) National bank

The term ''national bank'' has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(7) Federal banking agencies

The term ''Federal banking agencies'' means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

(8) State

The term ''State'' has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(9) Affiliate

The term ''affiliate'' means any person that controls, is controlled by, or is under common control with, a savings association, except as provided in section 1467a of this title.

(June 13, 1933, ch. 64, § 2, 48 Stat. 128; June 27, 1934, ch. 847, title V, § 508(a), 48 Stat. 1264; May 28, 1935, ch. 150, § 10, 49 Stat. 296; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640; Pub. L. 95–630, title XII, § 1201, Nov. 10, 1978, 92 Stat. 3710; Pub. L. 97–320, title I, § 114(a), Oct. 15, 1982, 96 Stat. 1475; Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 277.)

AMENDMENTS

1989—Pub. L. 101–73 amended section generally, substituting definition of ''Director'', ''Corporation'', ''Office'', ''savings association'', ''Federal savings association'', ''national bank'', ''Federal banking agencies'', ''State'', and ''affiliate'', designated as pars. (1) to (9), for definition of ''Board'', ''Corporation'', ''home mortgage'', ''first mortgage'', and ''association'', designated as subsecs. (a) to (d).

1982—Subsec. (d). Pub. L. 97–320 substituted reference to Federal savings bank or Federal savings banks for reference to Federal mutual savings bank wherever appearing.

1978—Subsec. (d). Pub. L. 95–630 included a Federal mutual savings bank chartered by the Board within definition of ''association'', and inserted provisions that a reference to a Federal savings and loan association shall be deemed also a reference to a Federal mutual savings bank.

1935—Subsec. (c). Act May 28, 1935, inserted ''or dwellings'' and ''in whole or in part'' in cl. (2).

1934—Subsec. (c). Act June 27, 1934, substituted ''(1) under a lease for not less than ninety-nine years which is renewable, or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed'' for ''under a lease renewable for not less than ninety nine years''.

CHANGE OF NAME

''Home Loan Bank Board'' changed to ''Federal Home Loan Bank Board'' by act Aug. 11, 1955, ch. 783, § 109(a)(3), which was classified to section 1437(b) of this title prior to the repeal of section 1437 by Pub. L. 101–73, title VII, § 703(a), Aug. 9, 1989, 103 Stat. 415.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective upon expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95–630 set out as an Effective Date note under section 375b of this title.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1947, set out in the Appendix to Title 5, Government Organization and Employees, abolished Federal Home Loan Bank Board and transferred its functions to Home Loan Bank Board created by the Plan.

§ 1462a. Director of Office of Thrift Supervision

(a) Establishment of Office

There is established the Office of Thrift Supervision, which shall be an office in the Department of the Treasury.

(b) Establishment of position of Director

(1) In general

There is established the position of the Director of the Office of Thrift Supervision, who shall be the head of the Office of Thrift Supervision and shall be subject to the general oversight of the Secretary of the Treasury.

(2) Authority to prescribe regulations

The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary for carrying out this chapter and all other laws within the Director's jurisdiction.

(3) Autonomy of Director

The Secretary of the Treasury may not intervene in any matter or proceeding before the Director (including agency enforcement actions) unless otherwise specifically provided by law.

(4) Banking agency rulemaking

The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Director.

(c) Appointment; term

(1) Appointment

The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

(2) Term

The Director shall be appointed for a term of 5 years.

(3) Vacancy

A vacancy in the position of Director which occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established in paragraph (1) and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

(4) Service after end of term

An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

(5) Transitional provision

Notwithstanding paragraphs (1) and (2), the Chairman of the Federal Home Loan Bank Board on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Aug. 9, 1989], shall be the Director until the date on which that individual's term as Chairman of the Federal Home Loan Bank Board would have expired.

(d) Prohibition on financial interests

The Director shall not have a direct or indirect financial interest in any insured depository

institution, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(e) Powers of Director

The Director shall have all powers which—

(1) were vested in the Federal Home Loan Bank Board (in the Board's capacity as such) or the Chairman of such Board on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Aug. 9, 1989]; and

(2) were not—

(A) transferred to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Resolution Trust Corporation, or the Federal Home Loan Mortgage Corporation pursuant to any amendment made by such Act; or

(B) established under any provision of law repealed by such Act.

(f) State homestead provisions

No provision of this chapter or any other provision of law administered by the Director shall be construed as superseding any homestead provision of any State constitution, including any implementing State statute, in effect on September 29, 1994, or any subsequent amendment to such a State constitutional or statutory provision in effect on September 29, 1994, that exempts the homestead of any person from foreclosure, or forced sale, for the payment of all debts, other than a purchase money obligation relating to the homestead, taxes due on the homestead, or an obligation arising from work and material used in constructing improvements on the homestead.

(g) Annual report required

The Director shall make an annual report to the Congress. Such report shall include—

(1) a description of any changes the Director has made or is considering making in the district offices of the Office, including a description of the geographic allocation of the Office's resources and personnel used to carry out examination and supervision functions; and

(2) a description of actions taken to carry out section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(h) Staff

(1) Appointment and compensation

The Director shall fix the compensation and number of, and appoint and direct, all employees of the Office of Thrift Supervision notwithstanding section 301(f)(1) of title 31. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States.

(2) Rates of basic pay

Rates of basic pay for employees of the Office may be set and adjusted by the Director without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5.

(3) Additional compensation and benefits

The Director may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any Federal banking agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Director shall consult, and seek to maintain comparability with, the Federal banking agencies.

(4) Delegation authority

(A) In general

The Director may—

(i) designate who shall act as Director in the Director's absence; and

(ii) delegate to any employee, representative, or agent any power of the Director.

(B) Limitations

Notwithstanding subparagraph (A)(ii), the Director shall not, directly or indirectly—

(i) after October 10, 1989, delegate to any Federal home loan bank or to any officer, director, or employee of a Federal home loan bank, any power involving examining, supervising, taking enforcement action with respect to, or otherwise regulating any savings association, savings and loan holding company, or other person subject to regulation by the Director; or

(ii) delegate the Director's authority to serve as a member of the Corporation's Board of Directors.

(i) Funding through assessments

The compensation of the Director and other employees of the Office and all other expenses thereof may be paid from assessments levied under this chapter.

(j) GAO audit

The Director shall make available to the Comptroller General of the United States all books and records necessary to audit all of the activities of the Office of Thrift Supervision.

(June 13, 1933, ch. 64, §3, as added Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 278; amended Pub. L. 103–325, title III, §331(c), Sept. 23, 1994, 108 Stat. 2232; Pub. L. 103–328, title I, §102(b)(5), Sept. 29, 1994, 108 Stat. 2352.)

REFERENCES IN TEXT

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsecs. (c)(5), (e), and (g)(2), is Pub. L. 101–73, Aug. 9, 1989, 103 Stat. 183. Section 308 of the Act is set out as a note under section 1463 of this title. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 3 of act June 13, 1933, amended section 1424 of this title prior to the general revision of this chapter by Pub. L. 101–73, §301.

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103–325, §331(c)(1), substituted "(including agency enforcement actions) unless otherwise specifically provided by law" for "unless otherwise provided by law".

Subsec. (b)(4). Pub. L. 103–325, §331(c)(2), added par. (4).

Subsecs. (f) to (j). Pub. L. 103–328 added subsec. (f) and redesignated former subsecs. (f) to (i) as (g) to (j), respectively.

DELEGATION OF AUTHORITY TO RATIFY OFFICE OF THRIFT SUPERVISION ACTIONS

Memorandum of the President of the United States, Apr. 18, 1990, 55 F.R. 15207, provided:

Memorandum for the Director of the Office of Thrift Supervision

By the authority vested in me as President of the United States by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to the Director of the Office of Thrift Supervision my authority to ratify actions taken on behalf of, or in the name of, the Office of Thrift Supervision or its Director before April 9, 1990.

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1 of this title; title 31 section 309.

§ 1463. Supervision of savings associations

(a) Federal savings associations

(1) In general

The Director shall provide for the examination, safe and sound operation, and regulation of savings associations.

(2) Regulations

The Director may issue such regulations as the Director determines to be appropriate to carry out the responsibilities of the Director or the Office.

(3) Safe and sound housing credit to be encouraged

The Director shall exercise all powers granted to the Director under this chapter so as to encourage savings associations to provide credit for housing safely and soundly.

(b) Accounting and disclosure

(1) In general

The Director shall, by regulation, prescribe uniform accounting and disclosure standards for savings associations, to be used in determining savings associations' compliance with all applicable regulations.

(2) Specific requirements for accounting standards

Subject to section 1464(t) of this title, the uniform accounting standards prescribed under paragraph (1) shall—

(A) incorporate generally accepted accounting principles to the same degree that such principles are used to determine compliance with regulations prescribed by the Federal banking agencies;

(B) allow for no deviation from full compliance with such standards as are in effect after December 31, 1993; and

(C) prior to January 1, 1994, require full compliance by savings associations with accounting standards in effect at any time before such date not later than provided under the schedule in section 563.23–3 of title 12, Code of Federal Regulations (as in effect on May 1, 1989).

(3) Authority to prescribe more stringent accounting standards

The Director may at any time prescribe accounting standards more stringent than required under paragraph (2) if the Director determines that the more stringent standards are necessary to ensure the safe and sound operation of savings associations.

(c) Stringency of standards

All regulations and policies of the Director governing the safe and sound operation of savings associations, including regulations and policies governing asset classification and appraisals, shall be no less stringent than those established by the Comptroller of the Currency for national banks.

(d) Investment of certain funds in accounts of savings associations

The savings accounts and share accounts of savings associations insured by the Corporation shall be lawful investments and may be accepted as security for all public funds of the United States, fiduciary and trust funds under the authority or control of the United States or any officer thereof, and for the funds of all corporations organized under the laws of the United States (subject to any regulatory authority otherwise applicable), regardless of any limitation of law upon the investment of any such funds or upon the acceptance of security for the investment or deposit of any of such funds.

(e) Participation by savings associations in lotteries and related activities

(1) Participation prohibited

No savings association may—

(A) deal in lottery tickets;

(B) deal in bets used as a means or substitute for participation in a lottery;

(C) announce, advertise, or publicize the existence of any lottery; or

(D) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(2) Use of facilities prohibited

No savings association may permit—

(A) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under paragraph (1); or

(B) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under paragraph (1).

(3) Definitions

For purposes of this subsection—

(A) Deal in

The term ''deal in'' includes making, taking, buying, selling, redeeming, or collecting.

(B) Lottery

The term ''lottery'' includes any arrangement under which—

(i) 3 or more persons (hereafter in this subparagraph referred to as the ''participants'') advance money or credit to another in exchange for the possibility or expectation that 1 or more but not all of the participants (hereafter in this paragraph referred to as the ''winners'') will receive by reason of those participants' advances

more than the amounts those participants have advanced; and

(ii) the identity of the winners is determined by any means which includes—

(I) a random selection;

(II) a game, race, or contest; or

(III) any record or tabulation of the result of 1 or more events in which any participant has no interest except for the bearing that event has on the possibility that the participant may become a winner.

(C) Lottery ticket

The term ''lottery ticket'' includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(4) Exception for State lotteries

Paragraphs (1) and (2) shall not apply with respect to any savings association accepting funds from, or performing any lawful services for, any State operating a lottery, or any officer or employee of such a State who is charged with administering the lottery.

(5) Regulations

The Director shall prescribe such regulations as may be necessary to provide for enforcement of this subsection and to prevent any evasion of any provision of this subsection.

(f) Federally related mortgage loan disclosures

A savings association may not make a federally related mortgage loan to an agent, trustee, nominee, or other person acting in a fiduciary capacity without requiring that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the savings association. At the request of the Director, the savings association shall report to the Director the identity of such person and the nature and amount of the loan.

(g) Preemption of State usury laws

(1) Notwithstanding any State law, a savings association may charge interest on any extension of credit at a rate of not more than 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which such savings association is located or at the rate allowed by the laws of the State in which such savings association is located, whichever is greater.

(2) If the rate prescribed in paragraph (1) exceeds the rate such savings association would be permitted to charge in the absence of this subsection, the receiving or charging a greater rate of interest than that prescribed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the extension of credit carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the date of such payment, an amount equal to twice the amount of the interest paid from the savings association taking or receiving such interest.

(h) Form and maturity of securities

No savings association shall—

(1) issue securities which guarantee a definite maturity except with the specific approval of the Director, or

(2) issue any securities the form of which has not been approved by the Director.

(June 13, 1933, ch. 64, § 4, as added Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 280.)

PRIOR PROVISIONS

A prior section 1463, acts June 13, 1933, ch. 64, § 4, 48 Stat. 129; Apr. 27, 1934, ch. 168, §§ 1(a), 2–4, 13, 48 Stat. 643–645, 647; June 27, 1934, ch. 847, title V, §§ 506, 508(b), 48 Stat. 1263, 1264; May 28, 1935, ch. 150, §§ 10–17(a), 49 Stat. 296, 297; Aug. 11, 1939, ch. 684, 53 Stat. 1403; Oct. 24, 1942, ch. 621, 56 Stat. 986; June 30, 1947, ch. 166, title II, § 206(f), 61 Stat. 206, related to creation of Home Owners' Loan Corporation, for appointment and compensation of its board of directors, for appointment and compensation of its employees, and for other powers, prior to repeal by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

A prior section 1463a, act Apr. 27, 1934, ch. 168, § 1(b), 48 Stat. 644, provided that amendments made to subsec. (c) of former section 1463 of this title, except with respect to refunding, by act Apr. 27, 1934, should not apply to any bonds prior to Apr. 27, 1934, issued under subsec. (c), or to any bonds thereafter issued in compliance with commitments of the Corporation outstanding on Apr. 27, 1934.

A prior section 1463b, act Apr. 27, 1934, ch. 168, § 9, 48 Stat. 646, related to purchase of obligations of, and loans to, Federal Home Loan Banks, prior to repeal by act May 28, 1935, ch. 150, § 17(b), 49 Stat. 297.

PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS

Section 308 of Pub. L. 101–73 provided that:

''(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with the Director of the Office of Thrift Supervision and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:

''(1) Preserving the present number of minority depository institutions.

''(2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:

''(A) Same type of minority depository institution in the same city.

''(B) Same type of minority depository institution in the same State.

''(C) Same type of minority depository institution nationwide.

''(D) Any type of minority depository institution in the same city.

''(E) Any type of minority depository institution in the same State.

''(F) Any type of minority depository institution nationwide.

''(G) Any other bidders.

''(3) Providing technical assistance to prevent insolvency of institutions not now insolvent.

''(4) Promoting and encouraging creation of new minority depository institutions.

''(5) Providing for training, technical assistance, and educational programs.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MINORITY FINANCIAL INSTITUTION.—The term 'minority depository institution' means any depository institution that—

''(A) if a privately owned institution, 51 percent is owned by one or more socially and economically disadvantaged individuals;

''(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

''(C) in the case of a mutual institution where the majority of the Board of Directors, account holders, and the community which it services is predominantly minority.

''(2) MINORITY.—The term 'minority' means any black American, Native American, Hispanic American, or Asian American.''

ABOLITION OF HOME OWNERS' LOAN CORPORATION

Act June 30, 1953, ch. 170, § 21, 67 Stat. 126, provided for dissolution and abolition of Home Owners' Loan Corporation established by former section 1463 of this title.

§ 1464. Federal savings associations

(a) In general

In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Director is authorized, under such regulations as the Director may prescribe—

(1) to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings associations (including Federal savings banks), and

(2) to issue charters therefor,

giving primary consideration of the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.

(b) Deposits and related powers

(1) Deposit accounts

(A) Subject to the terms of its charter and regulations of the Director, a Federal savings association may—

(i) raise funds through such deposit, share, or other accounts, including demand deposit accounts (hereafter in this section referred to as ''accounts''); and

(ii) issue passbooks, certificates, or other evidence of accounts.

(B) A Federal savings association may not—

(i) pay interest on a demand account; or

(ii) permit any overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such overdraft in such savings association's account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of a Federal savings association shall, to such extent as may be provided by its charter or by regulations of the Director, be members of the savings association, and shall have such voting rights and such other rights as are thereby provided.

(C) A Federal savings association may require not less than 14 days notice prior to payment of savings accounts if the charter of the savings association or the regulations of the Director so provide.

(D) If a Federal savings association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice), the payment of withdrawals from accounts shall be subject to such rules and procedures as may be prescribed by the savings association's charter or by regulation of the Director. Except as authorized in writing by the Director, any Federal savings association that fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition.

(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the Federal savings association, as the Director may by regulation provide.

(F) A Federal savings association may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Director.

(2) Other liabilities

To such extent as the Director may authorize in writing, a Federal savings association may borrow, may give security, may be surety as defined by the Director and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock.

(3) Loans from State housing finance agencies

(A) In general

Subject to regulation by the Director but without regard to any other provision of this subsection, any Federal savings association that is in compliance with the capital standards in effect under subsection (t) of this section may borrow funds from a State mortgage finance agency of the State in which the head office of such savings association is situated to the same extent as State law authorizes a savings association organized under the laws of such State to borrow from the State mortgage finance agency.

(B) Interest rate

A Federal savings association may not make any loan of funds borrowed under subparagraph (A) at an interest rate which exceeds by more than 1¾ percent per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

(4) Mutual capital certificates

In accordance with regulations issued by the Director, mutual capital certificates may be issued and sold directly to subscribers or through underwriters. Such certificates may be included in calculating capital for the purpose of subsection (t) of this section to the extent permitted by the Director. The issuance of certificates under this paragraph does not constitute a change of control or ownership under this chapter or any other law unless there is in fact a change in control or reorganization. Regulations relating to the issuance and sale of mutual capital certificates shall provide that such certificates—

(A) are subordinate to all savings accounts, savings certificates, and debt obligations;

(B) constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the Federal savings association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

(C) are entitled to the payment of dividends; and

(D) may have a fixed or variable dividend rate.

(c) Loans and investments

To the extent specified in regulations of the Director, a Federal savings association may invest in, sell, or otherwise deal in the following loans and other investments:

(1) Loans or investments without percentage of assets limitation

Without limitation as a percentage of assets, the following are permitted:

(A) Account loans

Loans on the security of its savings accounts and loans specifically related to transaction accounts.

(B) Residential real property loans

Loans on the security of liens upon residential real property.

(C) United States Government securities

Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

(D) Federal home loan bank and Federal National Mortgage Association securities

Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

(E) Federal Home Loan Mortgage Corporation instruments

Investments in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455].

(F) Other Government securities

Investments in obligations, participations, securities, or other instruments issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association, or any agency of the United States. A savings association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act [12 U.S.C. 1721(g)].

(G) Deposits

Investments in accounts of any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(H) State securities

Investments in obligations issued by any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision). A Federal savings association may not invest more than 10 percent of its capital in obligations of any one issuer, exclusive of investments in general obligations of any issuer.

(I) Purchase of insured loans

Purchase of loans secured by liens on improved real estate which are insured or guaranteed under the National Housing Act [12 U.S.C. 1701 et seq.], the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38.

(J) Home improvement and manufactured home loans

Loans made to repair, equip, alter, or improve any residential real property, and loans made for manufactured home financing.

(K) Insured loans to finance the purchase of fee simple

Loans insured under section 240 of the National Housing Act [12 U.S.C. 1715z–5].

(L) Loans to financial institutions, brokers, and dealers

Loans to—

(i) financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or

(ii) any broker or dealer registered with the Securities and Exchange Commission,

which are secured by loans, obligations, or investments in which the Federal savings association has the statutory authority to invest directly.

(M) Liquidity investments

Investments (other than equity investments), identified by the Director, for liquidity purposes, including cash, funds on deposit at a Federal reserve bank or a Federal home loan bank, or bankers' acceptances.

(N) Investment in the national housing partnership corporation, partnerships, and joint ventures

Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.], and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act [42 U.S.C. 3937(a) or (c)].

(O) Certain HUD insured or guaranteed investments

Loans that are secured by mortgages—

(i) insured under title X of the National Housing Act [12 U.S.C. 1749aa et seq.],[1] or

(ii) guaranteed under title IV of the Housing and Urban Development Act of 1968, under part B of the National Urban Policy and New Community Development Act of 1970 [42 U.S.C. 4511 et seq.], or under section 802 of the Housing and Community Development Act of 1974 [42 U.S.C. 1440].

[1] See References in Text note below.

(P) State housing corporation investments

Obligations of and loans to any State housing corporation, if—

(i) such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act [12 U.S.C. 1701 et seq.], and

(ii) in the event of default, the holder of the obligations or loans has the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

(Q) Investment companies

A Federal savings association may invest in, redeem, or hold shares or certificates issued by any open-end management investment company which—

(i) is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.], and

(ii) the portfolio of which is restricted by such management company's investment policy (changeable only if authorized by shareholder vote) solely to investments that a Federal savings association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal in.

(R) Mortgage-backed securities

Investments in securities that—

(i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 [15 U.S.C. 77d(5)]; or

(ii) are mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934) [15 U.S.C. 78c(a)(41)],

subject to such regulations as the Director may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales price, or both.

(S) Small business related securities

Investments in small business related securities (as defined in section 78c(a)(53) of title 15), subject to such regulations as the Director may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both.

(T) Credit card loans

Loans made through credit cards or credit card accounts.

(U) Educational loans

Loans made for the payment of educational expenses.

(2) Loans or investments limited to a percentage of assets or capital

The following loans or investments are permitted, but only to the extent specified:

(A) Commercial and other loans

Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans made under this subparagraph may not exceed 20 percent of the total assets of the Federal savings association, and amounts in excess of 10 percent of such total assets may be used under this subparagraph only for small business loans, as that term is defined by the Director.

(B) Nonresidential real property loans

(i) In general

Loans on the security of liens upon nonresidential real property. Except as provided in clause (ii), the aggregate amount of such loans shall not exceed 400 percent of the Federal savings association's capital, as determined under subsection (t) of this section.

(ii) Exception

The Director may permit a savings association to exceed the limitation set forth in clause (i) if the Director determines that the increased authority—

(I) poses no significant risk to the safe and sound operation of the association, and

(II) is consistent with prudent operating practices.

(iii) Monitoring

If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations.

(C) Investments in personal property

Investments in tangible personal property, including vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale. Investments under this subparagraph may not exceed 10 percent of the assets of the Federal savings association.

(D) Consumer loans and certain securities

A Federal savings association may make loans for personal, family, or household purposes, including loans reasonably incident to providing such credit, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Director. Loans and other investments under this subparagraph may not exceed 35 percent of the assets of the Federal savings association, except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party.

(3) Loans or investments limited to 5 percent of assets

The following loans or investments are permitted, but not to exceed 5 percent of assets of a Federal savings association for each subparagraph:

(A) Community development investments

Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.]. No investment under this subparagraph in such real property may exceed an aggregate of 2 percent of the assets of the Federal savings association.

(B) Nonconforming loans

Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection.

(C) Construction loans without security

Loans—

(i) the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate; and

(ii) with respect to which the association—

(I) relies substantially on the borrower's general credit standing and projected future income for repayment, without other security; or

(II) relies on other assurances for repayment, including a guarantee or similar obligation of a third party.

The aggregate amount of such investments shall not exceed the greater of the Federal savings association's capital or 5 percent of its assets.

(4) Other loans and investments

The following additional loans and other investments to the extent authorized below:

(A) Business development credit corporations

A Federal savings association that is in compliance with the capital standards prescribed under subsection (t) of this section may invest in, lend to, or to[2] commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings associations chartered by such State are authorized. The aggregate amount of such investments, loans, and commitments of any such Federal savings association shall not exceed one-half of 1 percent of the association's total outstanding loans or $250,000, whichever is less.

(B) Service corporations

Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the Federal savings association's home office is located, if such corporation's entire capital stock is available for purchase only by savings associations of such State and by Federal associations having their home offices in such State. No Federal savings association may make any investment under this subparagraph if the association's aggregate outstanding investment under this subparagraph would exceed 3 percent of the association's assets. Not less than one-half of the investment permitted under this subparagraph which exceeds 1 percent of the association's assets shall be used primarily for community, inner-city, and community development purposes.

(C) Foreign assistance investments

Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 [22 U.S.C. 2181] or loans having the benefit of any guarantee under section 224 of such Act [22 U.S.C. 2184],[3] or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans guaranteed under section 221 or 222 of such Act [22 U.S.C. 2181 or 2182]. Investments under this subparagraph shall not exceed 1 percent of the Federal savings association's assets.

(D) Small business investment companies

A Federal savings association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d)[3] of the Small Business Investment Act of 1958 [15 U.S.C. 681(d)] for the purpose of aiding members of a Federal home loan bank. A Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 percent of the assets of such savings association.

(E) Bankers' banks

A Federal savings association may purchase for its own account shares of stock of a bankers' bank, described in Paragraph Seventh of section 24 of this title or in section 27(b) of this title, on the same terms and conditions as a national bank may purchase such shares.

(F) New Markets Venture Capital companies

A Federal savings association may invest in stock, obligations, or other securities of any New Markets Venture Capital company as defined in section 689 of title 15, except that a Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 5 percent of the capital and surplus of such savings association.

(5) Transition rule for savings associations acquiring banks

(A) In general

If, under section 5(d)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(3)], a

[2] So in original.

[3] See References in Text note below.

savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

(B) Extension

The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this chapter.

(6) Definitions

As used in this subsection—

(A) Residential property

The terms ''residential real property'' or ''residential real estate'' mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Director) and, combinations of homes or dwelling units and business property, involving only minor or incidental business use, or property to be improved by construction of such structures.

(B) Loans

The term ''loans'' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

(d) Regulatory authority

(1) In general

(A) Enforcement

The Director shall have power to enforce this section, section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], and regulations prescribed hereunder. In enforcing any provision of this section, regulations prescribed under this section, or any other law or regulation, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys. Except as otherwise provided, the Director shall be subject to suit (other than suits on claims for money damages) by any Federal savings association or director or officer thereof with respect to any matter under this section or any other applicable law, or regulation thereunder, in the United States district court for the judicial district in which the savings association's home office is located, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

(B) Ancillary provisions

(i) In making examinations of savings associations, examiners appointed by the Director shall have power to make such examinations of the affairs of all affiliates of such savings associations as shall be necessary to disclose fully the relations between such savings associations and their affiliates and the effect of such relations upon such savings associations. For purposes of this subsection, the term ''affiliate'' has the same meaning as in section 2(b) of the Banking Act of 1933 [12 U.S.C. 221a(b)], except that the term ''member bank'' in section 2(b) shall be deemed to refer to a savings association.

(ii) In the course of any examination of any savings association, upon request by the Director, prompt and complete access shall be given to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

(iii) Upon request made in the course of supervision or oversight of any savings association, for the purpose of acting on any application or determining the condition of any savings association, including whether operations are being conducted safely, soundly, or in compliance with charters, laws, regulations, directives, written agreements, or conditions imposed in writing in connection with the granting of an application or other request, the Director shall be given prompt and complete access to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

(iv) If prompt and complete access upon request is not given as required in this subsection, the Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the institution is located, or in which the person denying such access resides or carries on business, for an order requiring that such information be promptly provided.

(v) In connection with examinations of savings associations and affiliates thereof, the Director may—

(I) administer oaths and affirmations and examine and to[4] take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such savings association or affiliate, and

(II) issue subpenas and, for the enforcement thereof, apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the savings association or affiliate is located, or in which the witness resides or carries on business.

Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

(vi) In any proceeding under this section, the Director may administer oaths and affirmations, take depositions, and issue subpenas. The Director may prescribe regulations with respect to any such proceedings.

[4] So in original.

The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted.

(vii) Any party to a proceeding under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this subsection or section 10(c) of the Federal Deposit Insurance Act [12 U.S.C. 1820(c)], and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. All expenses of the Director in connection with this section shall be considered as nonadministrative expenses. Any court having jurisdiction of any proceeding instituted under this section by a savings association, or a director or officer thereof, may allow to any such party reasonable expenses and attorneys' fees. Such expenses and fees shall be paid by the savings association.

(2) Conservatorships and receiverships

(A) Grounds for appointing conservator or receiver for insured savings association

The Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act [12 U.S.C. 1821(c)(5)] exists.

(B) Power of appointment; judicial review

The Director shall have exclusive power and jurisdiction to appoint a conservator or receiver for a Federal savings association. If, in the opinion of the Director, a ground for the appointment of a conservator or receiver for a savings association exists, the Director is authorized to appoint ex parte and without notice a conservator or receiver for the savings association. In the event of such appointment, the association may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the Director to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Director to remove such conservator or receiver. Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

(C) Replacement

The Director may, without any prior notice, hearing, or other action, replace a conservator with another conservator or with a receiver, but such replacement shall not affect any right which the association may have to obtain judicial review of the original appointment, except that any removal under this subparagraph shall be removal of the conservator or receiver in office at the time of such removal.

(D) Court action

Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver or, except at the request of the Director, to restrain or affect the exercise of powers or functions of a conservator or receiver.

(E) Powers

(i) In general

A conservator shall have all the powers of the members, the stockholders, the directors, and the officers of the association and shall be authorized to operate the association in its own name or to conserve its assets in the manner and to the extent authorized by the Director.

(ii) FDIC or RTC as conservator or receiver

Except as provided in section 21A of the Federal Home Loan Bank Act [12 U.S.C. 1441a], the Director, at the Director's discretion, may appoint the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as conservator for a savings association. The Director shall appoint only the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as receiver for a savings association for the purpose of liquidation or winding up the affairs of such savings association. The conservator or receiver so appointed shall, as such, have power to buy at its own sale. The Federal Deposit Insurance Corporation, as such conservator or receiver, shall have all the powers of a conservator or receiver, as appropriate, granted under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators or receivers, as appropriate, of savings associations under this chapter and any other provisions of law.

(F) Disclosure requirement for those acting on behalf of conservator

A conservator shall require that any independent contractor, consultant, or counsel employed by the conservator in connection with the conservatorship of a savings association pursuant to this section shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the conservator.

(3) Regulations

(A) In general

The Director may prescribe regulations for the reorganization, consolidation, liquidation, and dissolution of savings associations, for the merger of insured savings associations with insured savings associations, for savings associations in conservatorship and receivership, and for the conduct of conservatorships and receiverships. The Director may, by regulation or otherwise, provide for the exercise of functions by members, stockholders, directors, or officers of a savings association during conservatorship and receivership.

(B) FDIC or RTC as conservator or receiver

In any case where the Federal Deposit Insurance Corporation or the Resolution Trust Corporation is the conservator or receiver, any regulations prescribed by the Director shall be consistent with any regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(4) Refusal to comply with demand

Whenever a conservator or receiver appointed by the Director demands possession of the property, business, and assets of any savings association, or of any part thereof, the refusal by any director, officer, employee, or agent of such association to comply with the demand shall be punishable by a fine of not more than $5,000 or imprisonment for not more than one year, or both.

(5) "Savings association" defined

As used in this subsection, the term ''savings association'' includes any savings association or former savings association that retains deposits insured by the Corporation, notwithstanding termination of its status as an institution insured by the Corporation.

(6) Compliance with monetary transaction recordkeeping and report requirements

(A) Compliance procedures required

The Director shall prescribe regulations requiring savings associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31.

(B) Examinations of savings associations to include review of compliance procedures

(i) In general

Each examination of a savings association by the Director shall include a review of the procedures required to be established and maintained under subparagraph (A).

(ii) Exam report requirement

The report of examination shall describe any problem with the procedures maintained by the association.

(C) Order to comply with requirements

If the Director determines that a savings association—

(i) has failed to establish and maintain the procedures described in subparagraph (A); or

(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Director,

the Director shall issue an order under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.

(7) Regulation and examination of savings association service companies, subsidiaries, and service providers

(A) General examination and regulatory authority

A service company or subsidiary that is owned in whole or in part by a savings association shall be subject to examination and regulation by the Director to the same extent as that savings association.

(B) Examination by other banking agencies

The Director may authorize any other Federal banking agency that supervises any other owner of part of the service company or subsidiary to perform an examination described in subparagraph (A).

(C) Applicability of section 8 of the Federal Deposit Insurance Act

A service company or subsidiary that is owned in whole or in part by a saving association shall be subject to the provisions of section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] as if the service company or subsidiary were an insured depository institution. In any such case, the Director shall be deemed to be the appropriate Federal banking agency, pursuant to section 3(q) of the Federal Deposit Insurance Act [12 U.S.C. 1813(q)].

(D) Service performed by contract or otherwise

Notwithstanding subparagraph (A), if a savings association, a subsidiary thereof, or any savings and loan affiliate or entity, as identified by section 8(b)(9) of the Federal Deposit Insurance Act [12 U.S.C. 1818(b)(9)], that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any service authorized under this chapter or, in the case of a State savings association, any applicable State law, whether on or off its premises—

(i) such performance shall be subject to regulation and examination by the Director to the same extent as if such services were being performed by the savings association on its own premises; and

(ii) the savings association shall notify the Director of the existence of the service relationship not later than 30 days after the earlier of—

(I) the date on which the contract is entered into; or

(II) the date on which the performance of the service is initiated.

(E) Administration by the Director

The Director may issue such regulations and orders, including those issued pursuant to section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], as may be necessary to enable the Director to administer and carry out this paragraph and to prevent evasion of this paragraph.

(8) Definitions

For purposes of this section—

(A) the term ''service company'' means—

(i) any corporation—

(I) that is organized to perform services authorized by this chapter or, in the case of a corporation owned in part by a State savings association, authorized by applicable State law; and

(II) all of the capital stock of which is owned by 1 or more insured savings associations; and

(ii) any limited liability company—

(I) that is organized to perform services authorized by this chapter or, in the case of a company, 1 of the members of which is a State savings association, authorized by applicable State law; and

(II) all of the members of which are 1 or more insured savings associations;

(B) the term ''limited liability company'' means any company, partnership, trust, or similar business entity organized under the law of a State (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) that provides that a member or manager of such company is not personally liable for a debt, obligation, or liability of the company solely by reason of being, or acting as, a member or manager of such company; and

(C) the terms ''State savings association'' and ''subsidiary'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(e) Character and responsibility

A charter may be granted only—

(1) to persons of good character and responsibility,

(2) if in the judgment of the Director a necessity exists for such an institution in the community to be served,

(3) if there is a reasonable probability of its usefulness and success, and

(4) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions.

(f) Federal home loan bank membership

After the end of the 6-month period beginning on November 12, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.].

(g) Preferred shares

[Repealed.]

(h) Discriminatory State and local taxation prohibited

No State, county, municipal, or local taxing authority may impose any tax on Federal savings associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions.

(i) Conversions

(1) In general

Any savings association which is, or is eligible to become, a member of a Federal home loan bank may convert into a Federal savings association (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form). Such conversion shall be subject to such regulations as the Director shall prescribe. Thereafter such Federal savings association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this chapter.

(2) Authority of Director

(A) No savings association may convert from the mutual to the stock form, or from the stock form to the mutual form, except in accordance with the regulations of the Director.

(B) Any aggrieved person may obtain review of a final action of the Director which approves or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of section 1467a(j) of this title within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Director, whichever is later.

(C) Any Federal savings association may change its designation from a Federal savings association to a Federal savings bank, or the reverse.

(3) Conversion to State association

(A) Any Federal savings association may convert itself into a savings association or savings bank organized pursuant to the laws of the State in which the principal office of such Federal savings association is located if—

(i) the State permits the conversion of any savings association or savings bank of such State into a Federal savings association;

(ii) such conversion of a Federal savings association into such a State savings association is determined—

(I) upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal savings association is located, as required by such law for a State-

chartered institution to convert itself into a Federal savings association, but in no event upon a vote of less than 51 percent of all the votes cast at such meeting, and

(II) upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal savings association;

(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof; and such notice shall be mailed, postage prepaid, at least 30 and not more than 60 days prior to the date of the meeting, to the Director and to each member or stockholder of record of the Federal savings association at the member's or stockholder's last address as shown on the books of the Federal savings association;

(iv) when a mutual savings association is dissolved after conversion, the members or shareholders of the savings association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

(v) when a stock savings association is dissolved after conversion, the stockholders will share on an equitable basis in the assets of the association; and

(vi) such conversion shall be effective upon the date that all the provisions of this chapter shall have been fully complied with and upon the issuance of a new charter by the State wherein the savings association is located.

(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Director may impose under this chapter.

(ii) The savings association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Director for issuance by similar savings associations in such State.

(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

(4) Savings bank activities

(A) To the extent authorized by the Director, but subject to section 18(m)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1828(m)(3)]—

(i) any Federal savings bank chartered as such prior to October 15, 1982, may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to October 15, 1982; and

(ii) any Federal savings bank in existence on August 9, 1989, and formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

(B) The authority conferred by this paragraph may be utilized by any Federal savings association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfather rights hereunder.

(5) Conversion to national or State bank

(A) In general

Any Federal savings association chartered and in operation before November 12, 1999, with branches in operation before November 12, 1999, in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency or the appropriate State bank supervisor, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before November 12, 1999, in 1 or more States, but only if each resulting national or State bank will meet all financial, management, and capital requirements applicable to the resulting national or State bank.

(B) Definitions

For purposes of this paragraph, the terms ''State bank'' and ''State bank supervisor'' have the meanings given those terms in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(j) Subscription for shares

[Repealed.]

(k) Depository of public money

When designated for that purpose by the Secretary of the Treasury, a savings association the deposits of which are insured by the Corporation shall be a depository of public money and may be employed as fiscal agent of the Government under such regulations as may be prescribed by the Secretary and shall perform all such reasonable duties as fiscal agent of the Government as may be required of it. A savings association the deposits of which are insured by the Corporation may act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality, including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury may deposit public money in any such savings association, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(*l*) Retirement accounts

A Federal savings association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1986 [26 U.S.C. 401(d)] and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code [26 U.S.C. 408] if the funds of such trust or account are invested only in savings accounts or deposits in such Federal savings association or

in obligations or securities issued by such Federal savings association. All funds held in such fiduciary capacity by any Federal savings association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under this paragraph.

(m) Branching

(1) In general

(A) No savings association incorporated under the laws of the District of Columbia or organized in the District or doing business in the District shall establish any branch or move its principal office or any branch without the Director's prior written approval.

(B) No savings association shall establish any branch in the District of Columbia or move its principal office or any branch in the District without the Director's prior written approval.

(2) "Branch" defined

For purposes of this subsection the term ''branch'' means any office, place of business, or facility, other than the principal office as defined by the Director, of a savings association at which accounts are opened or payments are received or withdrawals are made, or any other office, place of business, or facility of a savings association defined by the Director as a branch within the meaning of such sentence.

(n) Trusts

(1) Permits

The Director may grant by special permit to a Federal savings association applying therefor the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which compete with Federal savings associations are permitted to act under the laws of the State in which the Federal savings association is located. Subject to the regulations of the Director, service corporations may invest in State or federally chartered corporations which are located in the State in which the home office of the Federal savings association is located and which are engaged in trust activities.

(2) Segregation of assets

A Federal savings association exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under this subsection. The State banking authority involved may have access to reports of examination made by the Director insofar as such reports relate to the trust department of such association but nothing in this subsection shall be construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

(3) Prohibitions

No Federal savings association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Director.

(4) Separate lien

In the event of the failure of a Federal savings association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

(5) Deposits

Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, Federal savings associations so acting shall be required to make similar deposits. Securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Federal savings associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Federal savings associations shall have power to execute such bond when so required by the laws of the State involved.

(6) Oaths and affidavits

In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

(7) Certain loans prohibited

It shall be unlawful for any Federal savings association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $50,000 or twice the amount of that person's gain from the loan, whichever is greater, or may be imprisoned not more than 5 years, or may be both fined and imprisoned, in the discretion of the court.

(8) Factors to be considered

In reviewing applications for permission to exercise the powers enumerated in this section, the Director may consider—

(A) the amount of capital of the applying Federal savings association,

(B) whether or not such capital is sufficient under the circumstances of the case,

(C) the needs of the community to be served, and

(D) any other facts and circumstances that seem to it proper.

The Director may grant or refuse the application accordingly, except that no permit shall

be issued to any association having capital less than the capital required by State law of State banks, trust companies, and corporations exercising such powers.

(9) Surrender of charter

(A) Any Federal savings association may surrender its right to exercise the powers granted under this subsection, and have returned to it any securities which it may have deposited with the State authorities, by filing with the Director a certified copy of a resolution of its board of directors indicating its intention to surrender its right.

(B) Upon receipt of such resolution, the Director, if satisfied that such Federal savings association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, may in the Director's discretion, issue to such association a certificate that such association is no longer authorized to exercise the powers granted by this subsection.

(C) Upon the issuance of such a certificate by the Director, such Federal savings association (i) shall no longer be subject to the provisions of this section or the regulations of the Director made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with State authorities, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

(D) The Director may prescribe regulations necessary to enforce compliance with the provisions of this subsection.

(10) Revocation

(A) In addition to the authority conferred by other law, if, in the opinion of the Director, a Federal savings association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of 5 consecutive years to exercise, the powers granted by this subsection or otherwise fails or has failed to comply with the requirements of this subsection, the Director may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(1)(B) of this section, and subject to judicial review as therein provided, and shall be fixed for a date not earlier than 30 days and not later than 60 days after service of such notice unless the Director sets an earlier or later date at the request of any Federal savings association so served.

(C) Unless the Federal savings association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Director shall find that any allegation specified in the notice of charges has been established, the Director may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

(D) A revocation order shall become effective not earlier than the expiration of 30 days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

***(o)* Conversion of State savings banks**

(1) Subject to the provisions of this subsection and under regulations of the Director, the Director may authorize the conversion of a State-chartered savings bank that is a Bank Insurance Fund member into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, examination, and regulation of such institution.

(2)(A) Any Federal savings bank chartered pursuant to this subsection shall continue to be a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member.

(B) The Director shall notify the Corporation of any application under this chapter for conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation before disposing of the application, and shall notify the Corporation of the Director's determination with respect to such application.

(C) Notwithstanding any other provision of law, if the Corporation determines that conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the default of a savings bank it insures or to reopen a savings bank in default that it insured, or if the Corporation determines, with the concurrence of the Director, that severe financial conditions exist that threaten the stability of a savings bank insured by the Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Corporation shall provide the Director with a certificate of such determination, the reasons therefor in conformance with the requirements of this chapter, and the bank shall be converted or chartered by the Director, pursuant to the regulations thereof, from the time the Corporation issues the certificate.

(D) A bank may be converted under subparagraph (C) only if the board of trustees of the bank—

(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

(ii) has requested in writing that the Corporation use the authority of subparagraph (C).

(E)(i) Before making a determination under subparagraph (D), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of subparagraph (D).

(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (D) only by an affirmative vote of three-fourths of the Board of Directors. The Board of Directors shall provide the State supervisor, as soon as practicable, with a written certification of its determination.

(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this chapter.

(p) Conversions

(1) Notwithstanding any other provision of law, and consistent with the purposes of this chapter, the Director may authorize (or in the case of a Federal savings association, require) the conversion of any mutual savings association or Federal mutual savings bank that is insured by the Corporation into a Federal stock savings association or Federal stock savings bank, or charter a Federal stock savings association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the regulations of the Director.

(2) Authorizations under this subsection may be made only—

(A) if the Director has determined that severe financial conditions exist which threaten the stability of an association and that such authorization is likely to improve the financial condition of the association,

(B) when the Corporation has contracted to provide assistance to such association under section 13 of the Federal Deposit Insurance Act [12 U.S.C. 1823], or

(C) to assist an institution in receivership.

(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this chapter, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter.

(q) Tying arrangements

(1) A savings association may not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

(A) that the customer shall obtain additional credit, property, or service from such savings association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

(3) Any person injured by a violation of paragraph (1) may bring an action in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or in any other court of competent jurisdiction, and shall be entitled to recover three times the amount of the damages sustained, and the cost of suit, including a reasonable attorney's fee. Any such action shall be brought within 4 years from the date of the occurrence of the violation.

(4) Nothing contained in this subsection affects in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Director under this subsection shall in any manner constitute a defense to such action.

(5) For purposes of this subsection, the term ''loan'' includes obligations and extensions or advances of credit.

(6) EXCEPTIONS.—The Director may, by regulation or order, permit such exceptions to the prohibitions of this subsection as the Director considers will not be contrary to the purposes of this subsection and which conform to exceptions

granted by the Board of Governors of the Federal Reserve System pursuant to section 1972 of this title.

(r) Out-of-State branches

(1) No Federal savings association may establish, retain, or operate a branch outside the State in which the Federal savings association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986 [26 U.S.C. 7701(a)(19)] or meets the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify, or qualifies as a qualified thrift lender, as determined under section 1467a(m) of this title. No out-of-State branch so established shall be retained or operated unless the total assets of the Federal savings association attributable to all branches of the Federal savings association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under section 7701(a)(19) or as a qualified thrift lender, as determined under section 1467a(m) of this title, as applicable.

(2) The limitations of paragraph (1) shall not apply if—

(A) the branch results from a transaction authorized under section 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)];

(B) the branch was authorized for the Federal savings association prior to October 15, 1982;

(C) the law of the State where the branch is located, or is to be located, would permit establishment of the branch if the association was a savings association or savings bank chartered by the State in which its home office is located; or

(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

(3) The Director, for good cause shown, may allow Federal savings associations up to 2 years to comply with the requirements of this subsection.

(s) Minimum capital requirements

(1) In general

Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 [12 U.S.C. 3907] and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act [12 U.S.C. 3902(1)]), the Director shall require all savings associations to achieve and maintain adequate capital by—

(A) establishing minimum levels of capital for savings associations; and

(B) using such other methods as the Director determines to be appropriate.

(2) Minimum capital levels may be determined by Director case-by-case

The Director may, consistent with subsection (t) of this section, establish the minimum level of capital for a savings association at such amount or at such ratio of capital-to-assets as the Director determines to be necessary or appropriate for such association in light of the particular circumstances of the association.

(3) Unsafe or unsound practice

In the Director's discretion, the Director may treat the failure of any savings association to maintain capital at or above the minimum level required by the Director under this subsection or subsection (t) of this section as an unsafe or unsound practice.

(4) Directive to increase capital

(A) Plan may be required

In addition to any other action authorized by law, including paragraph (3), the Director may issue a directive requiring any savings association which fails to maintain capital at or above the minimum level required by the Director to submit and adhere to a plan for increasing capital which is acceptable to the Director.

(B) Enforcement of plan

Any directive issued and plan approved under subparagraph (A) shall be enforceable under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] to the same extent and in the same manner as an outstanding order which was issued under section 8 of the Federal Deposit Insurance Act and has become final.

(5) Plan taken into account in other proceedings

The Director may—

(A) consider a savings association's progress in adhering to any plan required under paragraph (4) whenever such association or any affiliate of such association (including any company which controls such association) seeks the Director's approval for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such association's progress in meeting the minimum level of capital required by the Director; and

(B) disapprove any proposal referred to in subparagraph (A) if the Director determines that the proposal would adversely affect the ability of the association to comply with such plan.

(t) Capital standards

(1) In general

(A) Requirement for standards to be prescribed

The Director shall, by regulation, prescribe and maintain uniformly applicable capital standards for savings associations. Those standards shall include—

(i) a leverage limit;

(ii) a tangible capital requirement; and

(iii) a risk-based capital requirement.

(B) Compliance

A savings association is not in compliance with capital standards for purposes of this subsection unless it complies with all capital standards prescribed under this paragraph.

(C) Stringency

The standards prescribed under this paragraph shall be no less stringent than the

capital standards applicable to national banks.

(D) Deadline for regulations

The Director shall promulgate final regulations under this paragraph not later than 90 days after August 9, 1989, and those regulations shall become effective not later than 120 days after August 9, 1989.

(2) Content of standards

(A) Leverage limit

The leverage limit prescribed under paragraph (1) shall require a savings association to maintain core capital in an amount not less than 3 percent of the savings association's total assets.

(B) Tangible capital requirement

The tangible capital requirement prescribed under paragraph (1) shall require a savings association to maintain tangible capital in an amount not less than 1.5 percent of the savings association's total assets.

(C) Risk-based capital requirement

Notwithstanding paragraph (1)(C), the risk-based capital requirement prescribed under paragraph (1) may deviate from the risk-based capital standards applicable to national banks to reflect interest-rate risk or other risks, but such deviations shall not, in the aggregate, result in materially lower levels of capital being required of savings associations under the risk-based capital requirement than would be required under the risk-based capital standards applicable to national banks.

(3) Transition rule

(A) Certain qualifying supervisory goodwill included in calculating core capital

Notwithstanding paragraph (9)(A), an eligible savings association may include qualifying supervisory goodwill in calculating core capital. The amount of qualifying supervisory goodwill that may be included may not exceed the applicable percentage of total assets set forth in the following table:

For the following period:	The applicable percentage is:
Prior to January 1, 1992	1.500 percent
January 1, 1992–December 31, 1992	1.000 percent
January 1, 1993–December 31, 1993	0.750 percent
January 1, 1994–December 31, 1994	0.375 percent
Thereafter	0 percent

(B) Eligible savings associations

For purposes of subparagraph (A), a savings association is an eligible savings association so long as the Director determines that—

(i) the savings association's management is competent;

(ii) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

(iii) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

(4) Special rules for purchased mortgage servicing rights

(A) In general

Notwithstanding paragraphs (1)(C) and (9), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the leverage limit and risk-based capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

(B) Tangible capital requirement

Notwithstanding paragraphs (1)(C) and (9)(C), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the tangible capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

(C) Percentage limitation prescribed by FDIC

Notwithstanding paragraph (1)(C) and subparagraphs (A) and (B) of this paragraph—

(i) for the purpose of subparagraph (A), the maximum amount of purchased mortgage servicing rights that may be included in calculating capital under the leverage limit and the risk-based capital requirement prescribed under paragraph (1) may not exceed the amount that could be included if the savings association were an insured State nonmember bank; and

(ii) for the purpose of subparagraph (B), the Corporation shall prescribe a maximum percentage of the tangible capital requirement that savings associations may satisfy by including purchased mortgage servicing rights in calculating such capital.

(D) Quarterly valuation

The fair market value of purchased mortgage servicing rights shall be determined not less often than quarterly.

(5) Separate capitalization required for certain subsidiaries

(A) In general

In determining compliance with capital standards prescribed under paragraph (1), all of a savings association's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings association's capital.

(B) Exception for agency activities

Subparagraph (A) shall not apply with respect to a subsidiary engaged, solely as

agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

(C) Other exceptions

Subparagraph (A) shall not apply with respect to any of the following:

(i) Mortgage banking subsidiaries

A savings association's investments in and extensions of credit to a subsidiary engaged solely in mortgage-banking activities.

(ii) Subsidiary insured depository institutions

A savings association's investments in and extensions of credit to a subsidiary—

(I) that is itself an insured depository institution or a company the sole investment of which is an insured depository institution, and

(II) that was acquired by the parent insured depository institution prior to May 1, 1989.

(iii) Certain Federal savings banks

Any Federal savings association existing as a Federal savings association on August 9, 1989—

(I) that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law; or

(II) that acquired its principal assets from an association that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law.

(D) Transition rule

(i) Inclusion in capital

Notwithstanding subparagraph (A), if a savings association's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings association may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

(I) the savings association's investments in and extensions of credit to the subsidiary on April 12, 1989; or

(II) the savings association's investments in and extensions of credit to the subsidiary on the date as of which the savings association's capital is being determined.

(ii) Applicable percentage

For purposes of clause (i), the applicable percentage is as follows:

For the following period:	The applicable percentage is:
Prior to July 1, 1990	100 percent
July 1, 1990–June 30, 1991	90 percent
July 1, 1991–October 31, 1992	75 percent
November 1, 1992–June 30, 1993	60 percent
July 1, 1993–June 30, 1994	40 percent
Thereafter	0 percent

(iii) Agency discretion to prescribe greater percentage

Subject to clauses (iv), (v), and (vi), the Director may prescribe by order, with respect to a particular qualified savings association, an applicable percentage greater than that provided in clause (ii) if the Director determines, in the Director's sole discretion, that the use of the greater percentage, under the circumstances—

(I) would not constitute an unsafe or unsound practice;

(II) would not increase the risk to the affected deposit insurance fund; and

(III) would not be likely to result in the association's being in an unsafe or unsound condition.

(iv) Substantial compliance with approved capital plan

In the case of a savings association which is subject to a plan submitted under paragraph (7)(D) of this subsection or an order issued under this subsection, a directive issued or plan approved under subsection (s) of this section, or a capital restoration plan approved or order issued under section 38 or 39 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*, 1831p–1], an order issued under clause (iii) with respect to the association shall be effective only so long as the association is in substantial compliance with such plan, directive, or order.

(v) Limitation on investments taken into account

In prescribing the amount by which an applicable percentage under clause (iii) may exceed the applicable percentage under clause (ii) with respect to a particular qualified savings association, the Director may take into account only the sum of—

(I) the association's investments in, and extensions of credit to, the subsidiary that were made on or before April 12, 1989; and

(II) the association's investments in, and extensions of credit to, the subsidiary that were made after April 12, 1989, and were necessary to complete projects initiated before April 12, 1989.

(vi) Limit

The applicable percentage limit allowed by the Director in an order under clause (iii) shall not exceed the following limits:

For the following period:	The limit is:
Prior to July 1, 1994	75 percent
July 1, 1994 through June 30, 1995	60 percent
July 1, 1995 through June 30, 1996	40 percent
After June 30, 1996	0 percent

(vii) Critically undercapitalized institution

In the case of a savings association that becomes critically undercapitalized (as defined in section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*]) as determined under this subparagraph without applying clause (iii), clauses (iii) through (v) shall be applied by substituting ''Corporation'' for ''Director'' each place such term appears.

(viii) "Qualified savings association" defined

For purposes of clause (iii), the term ''qualified savings association'' means an

eligible savings association (as defined in paragraph (3)(B)) which is subject to this paragraph solely because of the real estate investments or other real estate activities of the association's subsidiary, and—

(I) is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*]); or

(II) is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*], and is not critically undercapitalized (as defined in such section).

(ix) FDIC's discretion to prescribe lesser percentage

The Corporation may prescribe by order, with respect to a particular savings association, an applicable percentage less than that provided in clause (ii) or prescribed under clause (iii) if the Corporation determines, in its sole discretion, that the use of a greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the association's being in an unsafe or unsound condition.

(E) Consolidation of subsidiaries not separately capitalized

In determining compliance with capital standards prescribed under paragraph (1), the assets and liabilities of each of a savings association's subsidiaries (other than any subsidiary described in subparagraph (C)(ii)) shall be consolidated with the savings association's assets and liabilities, unless all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital pursuant to subparagraph (A).

(6) Consequences of failing to comply with capital standards

(A) Prior to January 1, 1991

Prior to January 1, 1991, the Director—

(i) may restrict the asset growth of any savings association not in compliance with capital standards; and

(ii) shall, beginning 60 days following the promulgation of final regulations under this subsection, require any savings association not in compliance with capital standards to submit a plan under subsection (s)(4)(A) of this section that—

(I) addresses the savings association's need for increased capital;

(II) describes the manner in which the savings association will increase its capital so as to achieve compliance with capital standards;

(III) specifies the types and levels of activities in which the savings association will engage;

(IV) requires any increase in assets to be accompanied by an increase in tangible capital not less in percentage amount than the leverage limit then applicable;

(V) requires any increase in assets to be accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable; and

(VI) is acceptable to the Director.

(B) On or after January 1, 1991

On or after January 1, 1991, the Director—

(i) shall prohibit any asset growth by any savings association not in compliance with capital standards, except as provided in subparagraph (C); and

(ii) shall require any savings association not in compliance with capital standards to comply with a capital directive issued by the Director (which may include such restrictions, including restrictions on the payment of dividends and on compensation, as the Director determines to be appropriate).

(C) Limited growth exception

The Director may permit any savings association that is subject to subparagraph (B) to increase its assets in an amount not exceeding the amount of net interest credited to the savings association's deposit liabilities if—

(i) the savings association obtains the Director's prior approval;

(ii) any increase in assets is accompanied by an increase in tangible capital in an amount not less than 6 percent of the increase in assets (or, in the Director's discretion if the leverage limit then applicable is less than 6 percent, in an amount equal to the increase in assets multiplied by the percentage amount of the leverage limit);

(iii) any increase in assets is accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable;

(iv) any increase in assets is invested in low-risk assets, such as first mortgage loans secured by 1- to 4-family residences and fully secured consumer loans; and

(v) the savings association's ratio of core capital to total assets is not less than the ratio existing on January 1, 1991.

(D) Additional restrictions in case of excessive risks or rates

The Director may restrict the asset growth of any savings association that the Director determines is taking excessive risks or paying excessive rates for deposits.

(E) Failure to comply with plan, regulation, or order

The Director shall treat as an unsafe and unsound practice any material failure by a savings association to comply with any plan, regulation, or order under this paragraph.

(F) Effect on other regulatory authority

This paragraph does not limit any authority of the Director under other provisions of law.

(7) Exemption from certain sanctions

(A) Application for exemption

Any savings association not in compliance with the capital standards prescribed under

paragraph (1) may apply to the Director for an exemption from any applicable sanction or penalty for noncompliance which the Director may impose under this chapter.

(B) Effect of grant of exemption

If the Director approves any savings association's application under subparagraph (A), the only sanction or penalty to be imposed by the Director under this chapter for the savings association's failure to comply with the capital standards prescribed under paragraph (1) is the growth limitation contained in paragraph (6)(B) or paragraph (6)(C), whichever is applicable.

(C) Standards for approval or disapproval

(i) Approval

The Director may approve an application for an exemption if the Director determines that—

(I) such exemption would pose no significant risk to the affected deposit insurance fund;

(II) the savings association's management is competent;

(III) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

(IV) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

(ii) Denial or revocation of approval

The Director shall deny any application submitted under clause (i) and revoke any prior approval granted with respect to any such application if the Director determines that the association's failure to meet any capital standards prescribed under paragraph (1) is accompanied by—

(I) a pattern of consistent losses;

(II) substantial dissipation of assets;

(III) evidence of imprudent management or business behavior;

(IV) a material violation of any Federal law, any law of any State to which such association is subject, or any applicable regulation; or

(V) any other unsafe or unsound condition or activity, other than the failure to meet such capital standards.

(D) Submission of plan required

Any application submitted under subparagraph (A) shall be accompanied by a plan which—

(i) meets the requirements of paragraph (6)(A)(ii); and

(ii) is acceptable to the Director.

(E) Failure to comply with plan

The Director shall treat as an unsafe and unsound practice any material failure by any savings association which has been granted an exemption under this paragraph to comply with the provisions of any plan submitted by such association under subparagraph (D).

(F) Exemption not available with respect to unsafe or unsound practices

This paragraph does not limit any authority of the Director under any other provision of law, including section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], to take any appropriate action with respect to any unsafe or unsound practice or condition of any savings association, other than the failure of such savings association to comply with the capital standards prescribed under paragraph (1).

(8) Temporary authority to make exceptions for eligible savings associations

(A) In general

Notwithstanding paragraph (1)(C), the Director may, by order, make exceptions to the capital standards prescribed under paragraph (1) for eligible savings associations. No exception under this paragraph shall be effective after January 1, 1991.

(B) Standards for approval or disapproval

In determining whether to grant an exception under subparagraph (A), the Director shall apply the same standards as apply to determinations under paragraph (7)(C).

(9) Definitions

For purposes of this subsection—

(A) Core capital

Unless the Director prescribes a more stringent definition, the term ''core capital'' means core capital as defined by the Comptroller of the Currency for national banks, less any unidentifiable intangible assets, plus any purchased mortgage servicing rights excluded from the Comptroller's definition of capital but included in calculating the core capital of savings associations pursuant to paragraph (4).

(B) Qualifying supervisory goodwill

The term ''qualifying supervisory goodwill'' means supervisory goodwill existing on April 12, 1989, amortized on a straightline basis over the shorter of—

(i) 20 years, or

(ii) the remaining period for amortization in effect on April 12, 1989.

(C) Tangible capital

The term ''tangible capital'' means core capital minus any intangible assets (as intangible assets are defined by the Comptroller of the Currency for national banks).

(D) Total assets

The term ''total assets'' means total assets (as total assets are defined by the Comptroller of the Currency for national banks) adjusted in the same manner as total assets would be adjusted in determining compliance with the leverage limit applicable to national banks if the savings association were a national bank.

(10) Use of Comptroller's definitions

(A) In general

The standards prescribed under paragraph (1) shall include all relevant substantive

definitions established by the Comptroller of the Currency for national banks.

(B) Special rule

If the Comptroller of the Currency has not made effective regulations defining core capital or establishing a risk-based capital standard, the Director shall use the definition and standard contained in the Comptroller's most recently published final regulations.

(u) Limits on loans to one borrower

(1) In general

Section 5200 of the Revised Statutes [12 U.S.C. 84] shall apply to savings associations in the same manner and to the same extent as it applies to national banks.

(2) Special rules

(A) Notwithstanding paragraph (1), a savings association may make loans to one borrower under one of the following clauses:

(i) for any purpose, not to exceed $500,000; or

(ii) to develop domestic residential housing units, not to exceed the lesser of $30,000,000 or 30 percent of the savings association's unimpaired capital and unimpaired surplus, if—

(I) the purchase price of each single family dwelling unit the development of which is financed under this clause does not exceed $500,000;

(II) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under subsection (t) of this section;

(III) the Director, by order, permits the savings association to avail itself of the higher limit provided by this clause;

(IV) loans made under this clause to all borrowers do not, in aggregate, exceed 150 percent of the savings association's unimpaired capital and unimpaired surplus; and

(V) such loans comply with all applicable loan-to-value requirements.

(B) A savings association's loans to one borrower to finance the sale of real property acquired in satisfaction of debts previously contracted in good faith shall not exceed 50 percent of the savings association's unimpaired capital and unimpaired surplus.

(3) Authority to impose more stringent restrictions

The Director may impose more stringent restrictions on a savings association's loans to one borrower if the Director determines that such restrictions are necessary to protect the safety and soundness of the savings association.

(v) Reports of condition

(1) In general

Each association shall make reports of conditions to the Director which shall be in a form prescribed by the Director and shall contain—

(A) information sufficient to allow the identification of potential interest rate and credit risk;

(B) a description of any assistance being received by the association, including the type and monetary value of such assistance;

(C) the identity of all subsidiaries and affiliates of the association;

(D) the identity, value, type, and sector of investment of all equity investments of the associations and subsidiaries; and

(E) other information that the Director may prescribe.

(2) Public disclosure

(A) Reports required under paragraph (1) and all information contained therein shall be available to the public upon request, unless the Director determines—

(i) that a particular item or classification of information should not be made public in order to protect the safety or soundness of the institution concerned or institutions concerned, the Savings Association Insurance Fund; or

(ii) that public disclosure would not otherwise be in the public interest.

(B) Any determination made by the Director under subparagraph (A) not to permit the public disclosure of information shall be made in writing, and if the Director restricts any item of information for savings institutions generally, the Director shall disclose the reason in detail in the Federal Register.

(C) The Director's determinations under subparagraph (A) shall not be subject to judicial review.

(3) Access by certain parties

(A) Notwithstanding paragraph (2), the persons described in subparagraph (B) shall not be denied access to any information contained in a report of condition, subject to reasonable requirements of confidentiality. Those requirements shall not prevent such information from being transmitted to the Comptroller General of the United States for analysis.

(B) The following persons are described in this subparagraph for purposes of subparagraph (A):

(i) the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and their designees; and

(ii) the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and their designees.

(4) First tier penalties

Any savings association which—

(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

(i) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

(ii) submits or publishes any false or misleading report or information; or

(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure

continues or such false or misleading information is not corrected. The savings association shall have the burden of proving by a preponderence[5] of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

(5) Second tier penalties

Any savings association which—

(A) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (4) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(6) Third tier penalties

If any savings association knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (5) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(7) Assessment

Any penalty imposed under paragraph (4), (5), or (6) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)(E), (F), (G), (I)] (for penalties imposed under such section), and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

(8) Hearing

Any savings association against which any penalty is assessed under this subsection shall be afforded a hearing if such savings association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act [12 U.S.C. 1818(h)] shall apply to any proceeding under this subsection.

(w) Forfeiture of franchise for money laundering or cash transaction reporting offenses

(1) In general

(A) Conviction of title 18 offense

(I) Duty to notify

If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

(II) Notice of termination; pretermination hearing

After receiving written notification from the Attorney General of such a conviction, the Director shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

(B) Conviction of title 31 offenses

If a Federal savings association is convicted of any criminal offense under section 5322 or 5324 of title 31 after receiving written notification from the Attorney General, the Director may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

(C) Judicial review

Subsection (d)(1)(B)(vii) of this section shall apply to any proceeding under this subsection.

(2) Factors to be considered

In determining whether a franchise shall be forfeited under paragraph (1), the Director shall take into account the following factors:

(A) The extent to which directors or senior executive officers of the savings association knew of, were[6] involved in, the commission of the money laundering offense of which the association was found guilty.

(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

(3) Successor liability

This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

(4) "Senior executive officer" defined

The term ''senior executive officer'' has the same meaning as in regulations prescribed

[5] So in original. Probably should be ''preponderance''.

[6] So in original. Probably should be ''or were''.

under section 32(f) of the Federal Deposit Insurance Act [12 U.S.C. 1831i(f)].

(June 13, 1933, ch. 64, §5, 48 Stat. 132; Apr. 27, 1934, ch. 168, §§5, 6, 48 Stat. 645, 646; May 28, 1935, ch. 150, §18, 49 Stat. 297; Aug. 10, 1939, ch. 666, title IX, §909, 53 Stat. 1402; Aug. 6, 1947, ch. 503, 61 Stat. 786; July 3, 1948, ch. 825, §1, 62 Stat. 1239; Oct. 20, 1951, ch. 521, title III, §313(d), 65 Stat. 490; July 14, 1952, ch. 723, §12, 66 Stat. 604; Aug. 2, 1954, ch. 649, title II, §204(b), title V, §503, 68 Stat. 622, 634; Aug. 11, 1955, ch. 783, title I, §110, 69 Stat. 641; Aug. 7, 1956, ch. 1029, title VI, §604, 70 Stat. 1114; Pub. L. 85–857, §13(f), Sept. 2, 1958, 72 Stat. 1264; Pub. L. 86–372, title VIII, §805, Sept. 23, 1959, 73 Stat. 687; Pub. L. 86–507, §1(11), June 11, 1960, 74 Stat. 200; Pub. L. 87–70, title IX, §901, June 30, 1961, 75 Stat. 189; Pub. L. 87–779, §1, Oct. 9, 1962, 76 Stat. 778; Pub. L. 87–834, §6(e)(1), Oct. 16, 1962, 76 Stat. 984; Pub. L. 88–560, title IX, §§901(a), 902–905, 907, 908, 910, Sept. 2, 1964, 78 Stat. 804–806; Pub. L. 89–117, title II, §201(b)(3), title XI, §1110(a)–(c), Aug. 10, 1965, 79 Stat. 465, 507; Pub. L. 89–695, title I, §101(a), Oct. 16, 1966, 80 Stat. 1028; Pub. L. 90–448, title III, §304(b), title IV, §416(c), title VIII, §§804(e), 807(m), title XVII, §1716, Aug. 1, 1968, 82 Stat. 508, 518, 543, 545, 608; Pub. L. 90–505, §5, Sept. 21, 1968, 82 Stat. 858; Pub. L. 90–575, title I, §118(b), Oct. 16, 1968, 82 Stat. 1026; Pub. L. 91–152, title IV, §416(b), Dec. 24, 1969, 83 Stat. 401; Pub. L. 91–351, title VII, §§706, 708, 709, July 24, 1970, 84 Stat. 462, 463; Pub. L. 91–609, title VII, §727(d), title IX, §907(b), (c), Dec. 31, 1970, 84 Stat. 1803, 1811; Pub. L. 92–318, title I, §133(c)(3), June 23, 1972, 86 Stat. 270; Pub. L. 93–100, §5(b), Aug. 16, 1973, 87 Stat. 343; Pub. L. 93–383, title VII, §§702–706, title VIII, §§802(i)(2), 805(c)(4), Aug. 22, 1974, 88 Stat. 715, 716, 725, 727; Pub. L. 93–449, §4(d), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 93–495, title I, §101(e), Oct. 28, 1974, 88 Stat. 1502; Pub. L. 94–60, July 25, 1975, 89 Stat. 301; Pub. L. 94–375, §22, Aug. 3, 1976, 90 Stat. 1078; Pub. L. 95–128, title IV, §§401–405, Oct. 12, 1977, 91 Stat. 1136, 1137; Pub. L. 95–147, §2(a), Oct. 28, 1977, 91 Stat. 1227; Pub. L. 95–630, title I, §§107(a)(3), (c)(3), (d)(3), (e)(3), 111(c), title II, §208(b), title XII, §§1202, 1204, title XVII, §1701, Nov. 10, 1978, 92 Stat. 3651, 3655, 3659, 3662, 3668, 3675, 3710, 3711, 3714; Pub. L. 96–153, title III, §§325, 326, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 96–161, title I, §102, Dec. 28, 1979, 93 Stat. 1233; Pub. L. 96–221, title III, §§304, 307, title IV, §§401–404, 407(a), 408, Mar. 31, 1980, 94 Stat. 146, 147, 151, 155, 156, 158–160; Pub. L. 97–320, title I, §§112, 114(b), (c), 121, 141(a)(2), (5), title II, §202(b), title III, §§311–313, 321–325, 328–331, 334, 351, title IV, §§424(a), (d)(8), (e), 427(a), Oct. 15, 1982, 96 Stat. 1471, 1475, 1479, 1489, 1492, 1496, 1497, 1499–1504, 1507, 1522–1524; Pub. L. 97–457, §§2, 12, 14(a)(1), (b), Jan. 12, 1983, 96 Stat. 2507, 2508; Pub. L. 98–440, title I, §105(a), Oct. 3, 1984, 98 Stat. 1691; Pub. L. 98–620, title IV, §402(9), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–570, title I, §1359(b), Oct. 27, 1986, 100 Stat. 3207–27; Pub. L. 100–86, title IV, §§406(a), 413(a), title V, §509(a), Aug. 10, 1987, 101 Stat. 614, 621, 635; Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 282; Pub. L. 102–242, title I, §§131(d), 133(d), title IV, §441, title V, §501(c), Dec. 19, 1991, 105 Stat. 2267, 2271, 2381, 2391; Pub. L. 102–310, July 1, 1992, 106 Stat. 276; Pub. L. 102–550, title IX, §953, title XV, §1502(b), title XVI, §§1603(d)(8), 1606(f)(1)–(3), Oct. 28, 1992, 106 Stat. 3893, 4046, 4080, 4088; Pub. L. 103–325, title II, §206(a), title III, §322(b), title IV, §411(c)(2)(D), Sept. 23, 1994, 108 Stat. 2199, 2227, 2253; Pub. L. 104–208, div. A, title II, §§2216(b), 2303(a)–(d), (f), 2704(d)(12)(A), Sept. 30, 1996, 110 Stat. 3009–413, 3009–424, 3009–490; Pub. L. 105–164, §3(a)(1), Mar. 20, 1998, 112 Stat. 33; Pub. L. 106–102, title VI, §603, title VII, §739, Nov. 12, 1999, 113 Stat. 1450, 1480; Pub. L. 106–554, §1(a)(8) [§1(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A–665; Pub. L. 106–569, title XII, §1201(b)(1), Dec. 27, 2000, 114 Stat. 3032.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (c)(1)(I), (O)(i), (P), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§1701 et seq.) of this title. Title X of the National Housing Act is title X of act June 27, 1934, ch. 847, as added by act Aug. 10, 1965, Pub. L. 89–117, title II, §201(a), 79 Stat. 461, which was classified generally to subchapter IX–A (§1749aa et seq.) of chapter 13 of this title, and was repealed by Pub. L. 101–235, title I, §133(a), Dec. 15, 1989, 103 Stat. 2027. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The Servicemen's Readjustment Act of 1944, referred to in subsec. (c)(1)(I), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§§693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by section 14(87) of Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1273, the first section of which enacted Title 38, Veterans' Benefits. For distribution of sections 693 to 697g of former Title 38 to Title 38, Veterans' Benefits, see Table preceding section 101 of Title 38, Veterans' Benefits.

The Housing and Urban Development Act of 1968, referred to in subsec. (c)(1)(N), (O)(ii), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IX of the Act is classified principally to chapter 49 (§3931 et seq.) of Title 42, The Public Health and Welfare. Title IV of the Housing and Urban Development Act, which was classified to chapter 48 (§3901 et seq.) of Title 42, was repealed, with certain exceptions which were omitted from the Code, by Pub. L. 98–181, title IV, §474(e), Nov. 30, 1983, 97 Stat. 1239. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

The National Urban Policy and New Community Development Act of 1970, referred to in subsec. (c)(1)(O)(ii), is title VII of Pub. L. 91–609, Dec. 31, 1970, 84 Stat. 1791, as amended. Part B of the Act is classified generally to part B (§4511 et seq.) of chapter 59 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4501 of Title 42 and Tables.

Section 802 of the Housing and Community Development Act of 1974, referred to in subsec. (c)(1)(O)(ii), enacted section 1440 of Title 42, and amended sections 371 and 1464 of this title.

The Investment Company Act of 1940, referred to in subsec. (c)(1)(Q)(i), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a–1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a–51 of Title 15 and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (c)(3)(A), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

Section 224 of such Act [22 U.S.C. 2184], referred to in subsec. (c)(4)(C), means section 224 of the Foreign Assistance Act of 1961, which related to housing projects

in Latin American countries and was eliminated in the general amendment made by section 105 of the Foreign Assistance Act of 1969 (Pub. L. 91–175). See section 222 of such Act [22 U.S.C. 2182].

Section 301(d) of the Small Business Investment Act of 1958, referred to in subsec. (c)(4)(D), which was classified to section 681(d) of Title 15, Commerce and Trade, was repealed by Pub. L. 104–208, div. D, title II, § 208(b)(3)(A), Sept. 30, 1996, 110 Stat. 3009–742.

The Federal Rules of Civil Procedure, referred to in subsec. (d)(1)(A), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Deposit Insurance Act, referred to in subsec. (d)(2)(E)(ii), (3)(B), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

The Federal Home Loan Bank Act, referred to in subsec. (f), is act July 22, 1932, ch. 522, 47 Stat. 725, as amended, which is classified generally to chapter 11 (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see section 1421 of this title and Tables.

AMENDMENTS

2000—Subsec. (c)(1)(M). Pub. L. 106–569 amended heading and text generally. Prior to amendment, text read as follows: ''Investments which, when made, are of a type that may be used to satisfy any liquidity requirement imposed by the Director pursuant to section 1465 of this title.''

Subsec. (c)(4)(F). Pub. L. 106–554 added subpar. (F).

1999—Subsec. (f). Pub. L. 106–102, § 603, amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: ''Each Federal savings association, upon receiving its charter, shall become automatically a member of the Federal home loan bank of the district in which it is located, or if convenience requires and the Director approves, shall become a member of a Federal home loan bank of an adjoining district. Such associations shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act with respect to other members.''

Subsec. (i)(5). Pub. L. 106–102, § 739, added par. (5).

1998—Subsec. (d)(7), (8). Pub. L. 105–164 added pars. (7) and (8).

1996—Subsec. (b)(4), (5). Pub. L. 104–208, § 2303(a), redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: ''Subject to regulations of the Director, a Federal savings association may issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.''

Subsec. (c)(1)(T), (U). Pub. L. 104–208, § 2303(b), added subpars. (T) and (U).

Subsec. (c)(2)(A). Pub. L. 104–208, § 2303(c), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: ''Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans under this paragraph shall not exceed 10 percent of the assets of the Federal savings association.''

Subsec. (c)(3). Pub. L. 104–208, § 2303(d), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out heading and text of former subpar. (A). Text read as follows: ''Loans made for the payment of educational expenses.''

Subsec. (c)(5)(A). Pub. L. 104–208, § 2704(d)(12)(A)(i), which directed the amendment of subpar. (A) by striking ''that is a member of the Bank Insurance Fund'', was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (c)(6). Pub. L. 104–208, § 2704(d)(12)(A)(ii), which directed the amendment of par. (6) by substituting ''For purposes of this subsection, the following definitions shall apply:'' for ''As used in this subsection—'', was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (*o*)(1). Pub. L. 104–208, § 2704(d)(12)(A)(iii), which directed the amendment of par. (1) by striking ''that is a Bank Insurance Fund member'', was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (*o*)(2)(A). Pub. L. 104–208, § 2704(d)(12)(A)(iv), which directed the amendment of subpar. (A) by substituting ''insured by the Deposit Insurance Fund'' for ''a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member'', was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (q)(6). Pub. L. 104–208, § 2216(b), added par. (6).

Subsec. (r)(1). Pub. L. 104–208, § 2303(f)(1), in first sentence, substituted ''subparagraph (C) of that section'' for ''subparagraph (c) of that section'' and inserted before period at end '', or qualifies as a qualified thrift lender, as determined under section 1467a(m) of this title'' and, in second sentence, inserted before period at end ''or as a qualified thrift lender, as determined under section 1467a(m) of this title, as applicable''.

Subsec. (r)(2)(C). Pub. L. 104–208, § 2303(f)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: ''the law of the State where the branch would be located would permit the branch to be established if the branch were a Federal savings association chartered by the State in which its home office is located; or''.

Subsec. (t)(5)(D)(iii)(II), (7)(C)(i)(I). Pub. L. 104–208, § 2704(d)(12)(A)(v), (vi), which directed the substitution of ''Deposit Insurance Fund'' for ''affected deposit insurance fund'', was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (v)(2)(A)(i). Pub. L. 104–208, § 2704(d)(12)(A)(vii), which directed the amendment of cl. (i) by substituting ''or the Deposit Insurance Fund'' for '', the Savings Association Insurance Fund'', was not executed. See Effective Date of 1996 Amendment note below.

1994—Subsec. (c)(1)(S). Pub. L. 103–325, § 206(a), added subpar. (S).

Subsec. (c)(4)(E). Pub. L. 103–325, § 322(b), added subpar. (E).

Subsec. (w)(1)(B). Pub. L. 103–325, § 411(c)(2)(D), substituted ''section 5322 or 5324 of title 31'' for ''section 5322 of title 31''.

1992—Subsec. (c)(2)(B)(iii). Pub. L. 102–550, § 1606(f)(1), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations''.

Subsec. (c)(2)(C). Pub. L. 102–550, § 1606(f)(2), struck out comma after ''including''.

Subsec. (c)(2)(D). Pub. L. 102–550, § 1606(f)(3), inserted before period at end of last sentence '', except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party''.

Subsec. (d)(2)(A). Pub. L. 102–550, § 1603(d)(8), inserted period at end.

Subsec. (t)(5)(D)(ii). Pub. L. 102–310 substituted ''October 31, 1992'' for ''June 30, 1992'' and ''November 1, 1992'' for ''July 1, 1992''.

Subsec. (t)(5)(D)(iii) to (ix). Pub. L. 102–550, § 953, added cls. (iii) to (viii), redesignated former cl. (iii) as (ix), and inserted ''or prescribed under clause (iii)'' after ''clause (ii)''.

Subsec. (w). Pub. L. 102–550, § 1502(b), added subsec. (w).

1991—Subsec. (c)(2)(B). Pub. L. 102–242, § 441(b), which directed amendment of subpar. (B) by inserting before period at end the following: '', provided however, that no amount in excess of 30 percent of the assets may be

invested in loans made directly by the association to the original obligor, and the association does not pay finder, referral, or other fees, directly or indirectly, to a third party.'', could not be executed because subpar. (B) did not contain a period at end thereof. The new language probably was intended to be inserted before period at end of subpar. (D).

Subsec. (c)(2)(D). Pub. L. 102–242, § 441(a), substituted ''35 percent'' for ''30 percent''.

Subsec. (c)(5), (6). Pub. L. 102–242, § 501(c), added par. (5) and redesignated former par. (5) as (6).

Subsec. (d)(2). Pub. L. 102–242, § 133(d), added subpar. (A), redesignated subpars. (E) to (I) as (B) to (F), respectively, and struck out former subpars. (A) to (D) which related to grounds for appointment of conservator or receiver for Federal savings associations, additional grounds for appointment of such conservator or receiver, grounds for appointment of conservator or receiver for State savings associations, and approval of State officials, respectively.

Subsec. (t)(7)(A), (B). Pub. L. 102–242, § 131(d), inserted ''under this chapter'' before period at end of subpar. (A) and after ''imposed by the Director'' in subpar. (B).

1989—Pub. L. 101–73 amended section generally, substituting subsecs. (a) to (f), (h), (i), and (k) to (v) relating to Federal savings associations for former subsecs. (a) to (s) relating to thrift institutions, and repealing subsecs. (g) and (j).

1987—Pub. L. 100–86, § 509(a), repealed Pub. L. 97–320, § 141. See 1982 Amendment note below.

Subsec. (d)(6)(E). Pub. L. 100–86, § 413(a), added subpar. (E).

Subsec. (s). Pub. L. 100–86, § 406(a), added subsec. (s).

1986—Subsec. (d)(8)(B)(i). Pub. L. 99–570, § 1359(b)(2), inserted reference to par. (16) of this subsection.

Subsec. (d)(16). Pub. L. 99–570, § 1359(b)(1), added par. (16).

Subsecs. (*l*), (r)(1). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1984—Subsec. (c)(1)(S). Pub. L. 98–440 added subpar. (S).

Subsec. (d)(6)(A). Pub. L. 98–620 struck out provision that such proceedings had to be given precedence over other cases pending in such courts, and had to be in every way expedited.

1983—Subsec. (b)(1)(B). Pub. L. 97–457, § 12, inserted ''may accept a demand account from itself and'' after ''An association''.

Subsec. (c)(3)(D). Pub. L. 97–457, § 14(a)(1), added subpar. (D).

Subsec. (*o*)(1). Pub. L. 97–457, § 2, inserted ''examination,'' after ''operation,''.

Subsec. (r)(2)(B). Pub. L. 97–457, § 14(b), substituted ''prior to the enactment of the Garn-St Germain Depository Institutions Act'' for ''prior to the enactment of the Depository Institutions Amendments''. Because the phrase had been translated as ''prior to October 15, 1982'' the amendment resulted in no change in text.

1982—Subsec. (a). Pub. L. 97–320, § 311, substituted provisions that in order to provide thrift institutions for the deposit or investment of funds and for the extension of credit for homes and other goods and services, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings and loan associations, or Federal savings banks, and to issue charters therefor, giving primary consideration to the best practices of thrift institutions in the United States and that the lending and investment authorities are conferred by this section to provide such institutions the flexibility necessary to maintain their role of providing credit for housing for provisions which authorized the Board to provide for organization, etc. of Federal Savings and Loan Associations or Federal Mutual Savings Banks, and detailed the requirements as to associations which were State mutual savings banks or other associations which were formerly organized as savings banks under State law.

Subsec. (b)(1)(A). Pub. L. 97–320, § 312, designated existing first sentence as subpar. (A), struck out from parenthetical phrase ''and all of which shall have the same priority upon liquidation'' after ''savings accounts'', authorized the raising of capital in the form of demand accounts of persons or organizations that have a business, corporate, commercial, or agricultural relationship with the association, and substituted ''evidence of accounts'' for ''evidence of savings accounts''.

Subsec. (b)(1)(B). Pub. L. 97–320, § 312, designated existing second sentence as subpar. (B); authorized an association to accept demand accounts from a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments thereto by a nonbusiness customer; barred an association from payment of interest on a demand account; inserted requirement that ''All savings accounts and demand accounts shall have the same priority upon liquidation'', incorporating such requirement for savings accounts from existing first sentence; and substituted ''Holder of accounts'' for ''Holder of savings accounts''.

Subsec. (b)(1)(C). Pub. L. 97–320, § 312, designated existing third sentence as subpar. (C) and substituted ''an association's charter'' for ''the association's charter'' and ''fourteen'' days for ''thirty'' days in two places.

Subsec. (b)(1)(D). Pub. L. 97–320, § 312, designated existing fourth sentence as subpar. (D), substituted ''accounts'' for ''savings accounts'', and inserted in parenthetical phrase '', where applicable,''.

Subsec. (b)(1)(E). Pub. L. 97–320, § 312, designated existing fifth sentence as subpar. (E) and substituted ''Accounts may be subject'' for ''Savings accounts shall not be subject'' and ''transferable or other order or authorization to the association, as the Board may by regulation provide'' for ''transferable order or authorization to the association, but the Board may by regulation provide for withdrawal or transfer of savings accounts upon nontransferable order or authorization''.

Subsec. (b)(1)(F). Pub. L. 97–320, § 312, designated existing sixth sentence as subpar. (F) and substituted ''Notwithstanding any limitation of this section, associations may establish remote service units'' for ''This section does not prohibit the establishment of remote service units by associations'' and ''crediting savings or demand accounts'' for ''crediting existing savings accounts''.

Subsec. (b)(2). Pub. L. 97–320, § 312, substituted '', including capital stock,'' for ''(except capital stock)''.

Subsec. (b)(5)(B). Pub. L. 97–320, § 202(b)(1), added subpar. (B). Provisions of former subpar. (B) were moved to subpar. (C) and amended.

Subsec. (b)(5)(C). Pub. L. 97–320, § 202(b)(2), added subpar. (C) which consisted of the provisions of former subpar. (B) but with the addition of a reference to net worth certificates issued pursuant to section 1729(f) of this title.

Subsec. (c)(1)(A). Pub. L. 97–320, § 321, substituted ''transaction accounts'' for ''negotiable order-of-withdrawal accounts''.

Subsec. (c)(1)(B). Pub. L. 97–320, § 322, substituted ''Loans on the security of liens upon residential or nonresidential real property, except that the loans and investments of an association on nonresidential real property may not exceed 40 per centum of its assets'' for ''Loans on the security of liens upon residential real property in an amount which, when added to the amount unpaid upon prior mortgages, liens or encumbrances, if any, upon such real estate does not exceed the appraised value thereof, except that the amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by offsite improvements such as street, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. Notwithstanding the

above loan-to-value ratios, the Board may permit a loan-to-value ratio in excess of 90 per centum if such real estate is improved by a building or buildings and that portion of the unpaid balance of such loan which is in excess of an amount equal to 90 per centum of such value is guaranteed or insured by a public or private mortgage insurer or in the case of any loan for the purpose of providing housing for persons of low income, as described in regulations of the Board.

Subsec. (c)(1)(G). Pub. L. 97–320, § 323, inserted ", or in the savings accounts, certificates, or other accounts of any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" after "Federal Deposit Insurance Corporation".

Subsec. (c)(1)(H). Pub. L. 97–320, § 324, substituted "Investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that an association may not invest more than 10 per centum of its capital and surplus in obligations of any one issuer, exclusive of investments in general obligations of any issuer" for "Investments in general obligations of any State or any political subdivision thereof".

Subsec. (c)(1)(O). Pub. L. 97–320, § 328, inserted reference to loans secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance.

Subsec. (c)(1)(R). Pub. L. 97–320, § 325, added subpar. (R).

Subsec. (c)(2). Pub. L. 97–320, § 330(1), substituted "the following percentages" for "20 per centum" in provisions preceding subpar. (A).

Subsec. (c)(2)(A). Pub. L. 97–320, § 330(3), substituted "Investments in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association" for "Loans on security of first liens upon other improved real estate".

Subsec. (c)(2)(B). Pub. L. 97–320, § 329, inserted ", including loans reasonably incident to the provision of such credit," after "household purposes" and ", except that loans of an association under this subparagraph may not exceed 30 per centum of the assets of the association" after "as defined and approved by the Board".

Subsec. (c)(3)(A). Pub. L. 97–320, § 330(4)(B), substituted "educational expenses" for "expenses of college, university, or vocational education".

Subsec. (c)(3)(D). Pub. L. 97–320, § 330(4)(A), struck out subpar. (D). See 1983 Amendment note reenacting subpar. (D).

Subsec. (c)(4)(C). Pub. L. 97–320, § 330(5)(A), struck out subparagraph (i) which permitted loans secured by mortgages as to which the association had the benefit of insurance under title X of the National Housing Act [12 U.S.C. 1749aa et seq.] or of a commitment or agreement for such insurance, struck out designations of former subparagraphs (ii) and (iii), substituted "guarantee" for "guaranty" in first sentence, inserted "as hereafter amended or extended" after "section 221 or 222 of such Act [22 U.S.C. 2181 or 2182]", and struck out "Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this subsection."

Subsec. (c)(4)(D). Pub. L. 97–320, § 330(5)(B), substituted provisions authorizing investments in small business investment companies for provisions that authorized investments in State and local government obligations.

Subsec. (c)(5), (6). Pub. L. 97–320, § 330(2), redesignated par. (6) as (5).

Subsec. (d)(4)(C). Pub. L. 97–320, § 427(a)(1), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (d)(4)(D). Pub. L. 97–320, § 427(a)(1)–(3), redesignated former subpar. (C) as (D), and in subpar. (D) as so redesignated, substituted "(A), (B), or (C)" for "(A) or (B)" wherever appearing, and "subparagraph (F)" for "subparagraph (E)". Former subpar. (D) redesignated (E).

Subsec. (d)(4)(E). Pub. L. 97–320, § 427(a)(1), redesignated former subpar. (D) as (E). Former subpar. (E) redesignated (F).

Subsec. (d)(4)(F). Pub. L. 97–320, § 427(a)(1), (2), (4), redesignated former subpar. (E) as (F), and in subpar. (F) as so redesignated, substituted "(A), (B), or (C)" for "(A) or (B)", and "subparagraph (D)" for "subparagraph (C)".

Subsec. (d)(5)(A). Pub. L. 97–320, § 427(a)(5), substituted "(C), or (D)" for "or (C)".

Subsec. (d)(6)(B). Pub. L. 97–320, § 114(b)(1), inserted "or the Federal Deposit Insurance Corporation" after "Federal Savings and Loan Corporation".

Subsec. (d)(6)(D). Pub. L. 97–320, § 114(b)(2), inserted ", except as hereafter provided," after "shall appoint".

Pub. L. 97–320, § 114(b)(3), inserted provision relating to appointment as receiver and powers of Federal Deposit Insurance Corporation in the case of a Federal savings bank chartered pursuant to subsec. (*o*) of this section.

Subsec. (d)(8)(A). Pub. L. 97–320, § 351, inserted in last sentence ", which prevails," after "party".

Subsec. (d)(8)(B)(i). Pub. L. 97–320, § 424(a), (d)(8), inserted proviso giving Board discretionary authority to compromise, etc., any civil money penalty imposed under this subsection, and substituted "may be assessed" for "shall be assessed".

Subsec. (d)(8)(B)(iv). Pub. L. 97–320, § 424(e), substituted "twenty days from the service" for "ten days from the date".

Subsec. (d)(11). Pub. L. 97–320, § 114(c), substituted "with associations or any" for "with other" after "merger of associations".

Subsec. (d)(12)(A). Pub. L. 97–320, § 427(a)(6), substituted "(4)(D), (4)(E)" for "(4)(C), (4)(D)".

Subsec. (i). Pub. L. 97–320, § 313, amended subsec. (i) generally, substituting expanded provisions relating to conversions by banks to Federal charters, for provisions relating to conversion of member of Federal Home Loan Bank into Federal Savings and Loan Association, conversion of State stock savings and loan type institution charters into Federal stock charters, and conversion of Federal Savings and Loan Associations into State-chartered institutions.

Subsec. (*o*). Pub. L. 97–320, § 112, added subsec. (*o*).

Subsec. (*o*)(2)(F), (G). Pub. L. 97–320, § 141(a)(2), which directed the repeal of subpars. (F) and (G) effective Oct. 13, 1986, was repealed by Pub. L. 100–86, § 509(a). See Effective and Termination Dates of 1982 Amendment note and Extension of Emergency Acquisition and Net Worth Guarantee Provisions of Pub. L. 97–320 note set out below.

Subsec. (p). Pub. L. 97–320, § 141(a)(5), which directed the repeal of subsec. (p) effective Oct. 13, 1986, was repealed by Pub. L. 100–86, § 509(a). See Effective and Termination Dates of 1982 Amendment note and Extension of Emergency Acquisition and Net Worth Guarantee Provisions of Pub. L. 97–320 note set out below.

Pub. L. 97–320, § 121, added subsec. (p).

Subsecs. (q), (r). Pub. L. 97–320, §§ 331, 334, added subsecs. (q) and (r).

1980—Subsec. (a). Pub. L. 96–221, § 408, redesignated existing provisions as par. (1), denominated cls. (1) and (2) as (A) and (B), respectively, wherever appearing, and added pars. (2) and (3).

Subsec. (b)(1). Pub. L. 96–221, §§ 304, 307, inserted provision identical to provision added by Pub. L. 96–161 relating to establishment of remote service units, and repealed the amendment made by Pub. L. 96–161. See Repeals and Effective Date of 1980 Amendment notes below.

Subsec. (b)(4). Pub. L. 96–221, § 402, added par. (4).

Subsec. (b)(5). Pub. L. 96–221, § 407(a), added par. (5).

Subsec. (c). Pub. L. 96–221, § 401, generally revised investment authority of an association, with emphasis on provisions respecting loans or investments without percentage of assets limitations, loans or investments limited to 20 per centum of assets, and loans or investments limited to 5 per centum of assets.

Subsec. (i). Pub. L. 96–221, §404, inserted provisions relating to conversion of State stock savings and loan type charter into Federal stock charter.

Subsec. (n). Pub. L. 96–221, §403, added subsec. (n).

1979—Subsec. (b)(1). Pub. L. 96–161 provided that this section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board.

Subsec. (c)(1)(B). Pub. L. 96–153, §326, substituted ''$75,000'' for ''$60,000''.

Subsec. (c)(4)(E). Pub. L. 96–153, §325, added subpar. (E).

1978—Subsec. (a). Pub. L. 95–630, §1202, inserted provisions relating to the authority of the Federal Home Loan Bank Board to allow a State-chartered mutual savings bank to convert to a Federal charter and be known as a Federal mutual savings bank.

Subsec. (b)(3). Pub. L. 95–630, §1701(b), redesignated as subpar. (3), provisions which were formerly contained in undesignated par. 23 of subsec. (c).

Subsec. (c). Pub. L. 95–630, §1701, simplified the investment authority for Federal savings and loan associations and provided such associations with more authority to invest in urban areas and transferred provisions of formerly undesignated paragraphs 15, 17, and 23 of this section to subsecs. (m), (*l*), and (b)(3) of this section, respectively.

Subsec. (d)(2). Pub. L. 95–630, §107(a)(3), in subpar. (A) extended coverage of provisions to include directors, officers, employees, agents, or other persons participating in the conduct of the affairs of any association and added subpar. (C).

Subsec. (d)(3). Pub. L. 95–630, §107(c)(3), in subpars. (A) and (B) inserted references to any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association and in subpar. (A) inserted ''prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this sub-subsection'' after ''savings account holders'' and ''and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings'' after ''violation or practice''.

Subsec. (d)(4)(A). Pub. L. 95–630, §107(d)(3), inserted ''or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty'' before '', and that such violation'', '', or a willful or continuing disregard for the safety or soundness of the association'' after ''the part of such director or officer'', and ''or to prohibit his further participation in any manner in the conduct of the affairs of the association'' after ''remove him from office''.

Subsec. (d)(4)(B). Pub. L. 95–630, §107(d)(3), inserted references to a willful or continuing disregard for its safety and soundness in two places.

Subsec. (d)(5). Pub. L. 95–630, §111(c)(1), among other changes, in subpar. (A) substituted ''crime'' for ''felony'' in two places and ''subparagraph (A), (B), or (C)'' for ''subparagraph (A) or (B)'', inserted ''which is punishable by imprisonment for a term exceeding one year under State or Federal law'' after ''or breach of trust'' and '', if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association'' after ''the Board may'' in two places, and inserted provision that any notice of suspension or order of removal issued under this subparagraph remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board, and added subpar. (C).

Subsec. (d)(7)(A). Pub. L. 95–630, §111(c)(2), inserted ''(other than the hearing provided for in paragraph (5)(C) of this subsection'' after ''provided for in this subsection (d)''.

Subsec. (d)(8). Pub. L. 95–630, §107(e)(3), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d)(12)(A). Pub. L. 95–630, §111(c)(3), substituted ''(5)(A), or (5)(C)'' for ''or (5)(A)''.

Subsec. (d)(13)(A)(1). Pub. L. 95–630, §111(c)(4), inserted ''or (C)'' after ''paragraph (5)(A)''.

Subsec. (d)(15). Pub. L. 95–630, §208(b), added par. (15).

Subsec. (i). Pub. L. 95–630, §1204, inserted ''(including a savings bank)'' after ''member of a Federal Home Loan Bank'' in first par.

Subsec. (*l*). Pub. L. 95–630, §1701(b), redesignated as subsec. (*l*) the provisions which were formerly contained in undesignated par. 17 of subsec. (c).

Subsec. (m). Pub. L. 95–630, §1701(b), redesignated as subsec. (m) provisions which were formerly contained in undesignated par. 15 of subsec. (c).

1977—Subsec. (c), first par. Pub. L. 95–128, §§402, 405, in first proviso, increased limitation on loans for single family dwellings to $60,000 from $55,000 and inserted ''but of said 20 per centum the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under provisions of this sentence (other than this exception) or under the next following sentence shall be only the outstanding amount of such excess,'' after ''improved real estate without regard to the foregoing limitations,''; and struck out '', and the Board shall by regulation limit to not more than 20 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association under the foregoing provisions of this sentence on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property'' before ''; except''.

Subsec. (c), second and third pars. Pub. L. 95–128, §404, increased limitation on loans to $15,000 from $10,000.

Subsec. (c), twenty-first par. Pub. L. 95–128, §401, increased the rate to 5 from 3 per centum.

Subsec. (c), twenty-second par. Pub. L. 95–128, §403, authorized use of real property or interests for farm purposes.

Subsec. (k). Pub. L. 95–147 inserted ''shall be a depositary of public money and'' after ''Federal Home Loan Bank'' and '', including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection'' after ''instrumentality of the United States''.

1976—Subsec. (c). Pub. L. 94–375 inserted, in cl. (2) of twelfth par., ''and in the share capital and capital reserve of the Inter-American Savings and Loan Bank'' after ''made pursuant to either of such sections''.

1975—Subsec. (c). Pub. L. 94–60 in seventeenth par. struck out ''or section 408(a)'' after ''under section 401(d)'', and inserted ''and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code'' after ''Code of 1954'', and ''or account'' after ''funds of such trust''.

1974—Subsec. (b)(2). Pub. L. 93–495 inserted ''may be surety as defined by the Board'' after ''security,''.

Subsec. (c). Pub. L. 93–383, §§703, 805(c)(4), in first par. increased limitation from $45,000 for each single-family dwelling to $55,000, except that with respect to Alaska, Guam, and Hawaii the limitation may be increased by not more than 50 per centum by regulation of the Board, and inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

Pub. L. 93–383, §705, in second and third pars. substituted ''$10,000'' for ''$5,000''.

Pub. L. 93–383, §802(i)(2), in twelfth par. inserted reference to section 802 of the Housing and Community Development Act of 1974.

Pub. L. 93–449 in seventeenth par. inserted reference to section 408(a) of title 26. As enacted section 4(d) of

Pub. L. 93–449 amended nineteenth par.; however the amendment was executed to seventeenth par. editorially since this would appear to be the probable intent of Congress.

Pub. L. 93–383, § 702, added par. authorizing associations to invest an amount not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 3 per centum of its assets, in loans or in interests therein.

Pub. L. 93–383, § 704, added par. authorizing associations to invest in loans and advances of credit and interests therein upon the security of or respecting real property or interests therein.

Pub. L. 93–383, § 706, added par. authorizing association to borrow funds from a State mortgage finance agency of the State in which the head office of such association is situated.

1973—Subsec. (c). Pub. L. 93–100 added par. authorizing associations with general reserves, surplus, and undivided profits aggregating in excess of 5% of their withdrawable accounts to invest in, to lend to, or to commit themselves to lend to State housing corporations incorporated in the state in which the head office of the association is located with certain limitations.

1972—Subsec. (c). Pub. L. 92–318 authorized in second proviso investments in obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Subsec. (c), first par. Pub. L. 91–609, § 907(c), increased aggregate amount of authorized investments from 15 to 20 per centum of assets of the association.

Pub. L. 91–351, §§ 706, 709, in first par., inserted ''or within the State in which such home office is located'' after ''their home office'', and substituted ''$45,000'' for ''$40,000'' in first proviso, and ''section'' for ''proviso'' in second proviso.

Pub. L. 91–351, § 708, added par. authorizing any association to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan qualifying for specific tax treatment under section 401(d) of title 26.

Pub. L. 91–609, §§ 727(d), 907(b), in twelfth par., authorized associations to invest in loans or obligations guaranteed under part B of the Urban Growth and New Community Development Act of 1970, and extended authority to make certain investments to acquisition, holding, and disposition of loans, or interests therein, having benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty, respectively.

1969—Subsec. (c). Pub. L. 91–152 inserted provision authorizing any association to invest in stock issued by a corporation created pursuant to title IX of the Housing and Urban Development Act of 1968, and to invest in any partnership, etc., formed pursuant to section 907(a) or 907(c) of the Housing and Urban Development Act of 1968.

1968—Subsec. (b). Pub. L. 90–448, § 1716(a), struck out provisions which permitted associations to raise their capital only in the form of payments on shares and which prohibited acceptance of deposits or issuance of certificates of indebtedness except for borrowed money, and inserted provisions permitting an association to raise capital in the form of savings deposits, shares, or other accounts and to issue passbooks, time certificates of deposit, or other evidence of savings accounts, requiring holders of savings accounts and obligors to be members of the association, providing for notice for payment of any savings account, and for payment of withdrawals, prohibiting negotiable or transferable orders or authorization for checks or withdrawals or transfers, and empowering the associations to borrow, give security, and issue such notes, bonds, debentures, or other obligations or other securities (except capital stock) as the Board may authorize.

Subsec. (c). Pub. L. 90–505 allowed an association to invest in any investment which, at the time of the making of the investment, was an asset eligible for inclusion toward satisfaction of any liquidity requirement imposed on the association by section 1425a of this title but only to the extent that the investment was permitted to be so included under regulations issued by the Board or otherwise authorized.

Pub. L. 90–575 amended third par. (as designated prior to amendment by Pub. L. 90–448) to add vocational education expenses to the list of expenses for the payment of which associations are authorized to invest in loan, obligations and advances of credit.

Pub. L. 90–448, § 304(b), inserted paragraph permitting an association to invest in loans or obligations, or interests therein, as to which the association has the benefit of insurance under section 1715z–5 of this title, or of a commitment or agreement therefor.

Pub. L. 90–448, § 416(c), inserted sentence permitting an association to invest in loans or obligations, or interests therein, as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968, as now or hereafter in effect, or of a commitment or agreement therefor.

Pub. L. 90–448, § 804(e), inserted paragraph authorizing any such association to issue and sell securities which are guaranteed pursuant to section 1721(g) of this title.

Pub. L. 90–448, § 807(m), amended first par. to authorize investments in obligations, participations, or other instruments of or issued by, or guaranteed as to principal and interest by, the Government National Mortgage Association, and in stock of the Federal National Mortgage Association.

Pub. L. 90–448, § 1716(b), in first par., substituted ''security of their savings accounts'' for ''security of their shares'', and inserted provisions authorizing investment in time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

Pub. L. 90–448, § 1716(c), inserted provisions in second par. permitting loans for the construction of new structures related to residential use of the property.

Pub. L. 90–448, § 1716(d), inserted third par. authorizing loans, or investment in loans, not exceeding $5,000 for repair, equipping, alteration, or improvement of real property, or for mobile home financing.

Pub. L. 90–448, § 1716(e), amended par. relating to loans secured by mortgages insured under Title X of the National Housing Act, to permit an association to acquire and hold investments in housing project loans, or interests therein, having the benefit of any guaranty under section 2181 of title 22, to include commitments or agreements with respect to loans, or interests therein, made pursuant to either section 2181 or 2184 of title 22, and to eliminate provisions which stated that investments in loans secured by mortgages insured under Title X of the National Housing Act shall not be included in any percentage of assets or other percentage referred to in this subsection, and that investments in loans guaranteed under section 2184 of title 22 shall not be more than 1 per centum of the assets of the association.

Pub. L. 90–448, § 1716(f), inserted par. permitting an association to invest in loans, or interests in loans, to financial institutions with respect to which the United States or any agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which it has any statutory authority to invest directly.

1966—Subsec. (d). Pub. L. 89–695 amended provisions generally, substituting pars. (1) to (14) for former pars. (1) (consisting of thirteen sentences) and (2) (consisting of eleven sentences), such pars. (2) to (5), (7) to (10), (12)(A)(B), (13), and (14) being new provisions.

1965—Subsec. (c). Pub. L. 89–117 added par. which permitted an association to invest in loans (1) secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (2) guaranteed by the President under section 2184 of title 22, and prohibited investments under cl. (2) to exceed 1 per centum of the assets of such association, pro-

vided that, for purposes of this subsection, ''other dwelling units'' would include living accommodations for students, employees, or staff members of a college, or university, or hospital, reduced from 15 to 10 years the time by which a lease period must extend beyond the maturity date of the debt in order that a leasehold interest qualify as ''real property'' or ''real estate'' within this section, and added par. which prohibited any District of Columbia building and loan associations from establishing a branch or moving its principal office without the prior written approval of the Federal Home Loan Bank Board and forbade any other building and loan associations from establishing a branch office in the District or moving its principal office in the District without such approval.

1964—Subsec. (c). Pub. L. 88–560, §§ 901(a), 902–905, 907, 908, 910, amended provisions as follows:

Section 901(a) substituted ''one hundred miles'' for ''fifty miles'' in first sentence.

Section 902 substituted ''$40,000'' for ''$35,000'' in first proviso of first par. and deleted from end of such first proviso '', except that the aggregate sums invested pursuant to the two exceptions in this proviso shall not exceed 30 per centum of the assets of such association''.

Section 903 substituted provisions which authorized the association to invest not more than 5 per centum of its assets in, or in interests in, real property located within urban renewal areas and obligations secured by first liens on real property so located but limited the aggregate of such investments to 2 per centum of the assets of the association for former provisions which authorized the association to invest not more than 5 per centum of its assets in certificates of beneficial interest issued by any urban renewal investment trust, defined an ''urban renewal investment trust'', and provided for rules and regulations to be prescribed by the Federal Home Loan Bank Board for the establishment, operation, etc. of such urban renewal investment trusts.

Section 904 added par. which defined ''real property'' and ''real estate''.

Section 905 added par. which authorized an association to invest its assets in a corporation organized in the State where the association's home office is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations chartered in that State and Federal associations having their home offices therein but limited the aggregate of such investments to 1 per centum of its assets.

Section 907 inserted in second proviso of first par. '', or fully guaranteed as to principal and interest by,'', authorized an association to invest in participations or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or any other agency of the United States, and defined term ''State''.

Section 908 substituted in first sentence of second par. ''20 per centum'' and ''$5,000'' for ''15 per centum'' and ''$3,500'', respectively.

Section 910 inserted after second par. the paragraph which authorized the association to invest in loans, obligations, and advances of credit made for the payment of expenses of college or university education but limited such investments to 5 per centum of the assets of the association.

1962—Subsec. (c). Pub. L. 87–779, in first par., substituted provisions authorizing loans on the security of first liens upon real property within fifty miles of their home office which constitute first liens upon homes, combinations of homes and business property, other dwelling units, or combinations of dwelling units, including homes, and business property involving only minor or incidental business use, for provisions which permitted loans on the security of first liens upon homes or combination of homes and business property within fifty miles of their home office, and provisions limiting the amount of loan on the security of first liens to not more than $35,000 for each single-family dwelling, and not more than such amount per room as the Board may determine within the limits allowable in section 1713(c)(3) of this title for any other dwelling unit, for provisions which limited the amount of the loan to not more than $35,000 on the security of a first lien upon a home or combination of home and business property, inserted provisions requiring the Board to limit by regulation to not more than 15 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property, changed provisions which permitted use of additional sums not exceeding 20 per centum of the assets of the association without regard to area restriction for the making or purchase of participating interests in first liens on one- to four-family homes to permit use of such sums for the making or purchase of participating interests in real property of the type described in the opening provisions of this subsection, and substituted ''dollar amount limitation'' for ''$35,000 limitation'' in fourth par.

Subsec. (h). Pub. L. 87–834 struck out provisions which exempted such associations, including their franchises, capital, reserves, and surplus, and their loans and income, and all shares of such associations both as to their value and the income therefrom, from all taxation imposed by the United States.

1961—Pub. L. 87–70 inserted provisions in second par. authorizing investments in home improvement loans insured under subchapter II of chapter 13 of this title, and added former fourth, fifth, sixth and seventh par. (now sixth, seventh, eighth, and ninth) authorizing investments in non-amortized loans which are made on the security of first liens upon homes or combinations of homes and business property, in amortized loans or participating interests therein which are secured by first liens upon improved real estate used to provide housing facilities for the aging, in certificates of beneficial interest issued by any urban renewal investment trust, and permitting associations to invest in, to lend to, or to commit themselves to lend to any business development credit corporation incorporated in the State in which the head office of the association is situated.

1960—Subsec. (d)(1). Pub. L. 86–507 inserted ''or by certified mail,'' after ''registered mail,''.

1959—Subsec. (c). Pub. L. 86–372 permitted the use of additional sums not exceeding 20 per centum of the assets of an association without regard to the area restriction for the making or purchase of participating interests in first liens on one- to four-family homes, limited the aggregate sums invested pursuant to the two exceptions to not more than 30 per centum of the assets of the association, provided that participating interests in loans secured by mortgages which have the benefit of insurance or guaranty (or a commitment therefor) under the National Housing Act, the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, shall not be taken into account in determining the amount of loans which an association may make within any of the percentage limitations contained in the first proviso, and authorized any association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts to invest an amount not exceeding at any one time 5 per centum of such withdrawable accounts in loans to finance the acquisition and development of land for primarily residential usage.

1958—Subsec. (c). Pub. L. 85–857 inserted '', or chapter 37 of Title 38'' after ''Servicemen's Readjustment Act of 1944, as amended'' in two places.

1956—Subsec. (c). Act Aug. 7, 1956, substituted ''20 per centum'' for ''15 per centum'' in first sentence, and ''$3,500'' for ''$2,500'' in proviso at end of second par.

1955—Subsec. (c). Act Aug. 11, 1955, removed the limitation of $2,500 from insured or guaranteed loans.

1954—Subsec. (c). Act Aug. 2, 1954, §§ 204(b), 503(1), (3), amended provisions as follows: section 204(b) inserted the reference to obligations of the Federal National Mortgage Association in second proviso of first par.;

section 503(1), (3), substituted ''$35,000'' for ''$20,000'' in two places in first par. and increased from $1,500 to $2,500 the maximum amount of an unsecured loan in which a Federal savings and loan association may invest in second par.

Subsec. (d). Act Aug. 2, 1954, § 503(2), amended provisions generally to provide a means by administrative and court proceedings whereby the Board may enforce compliance with law and regulations by Federal savings and loan associations in cases where the Board felt that the appointment of a conservator or receiver was not necessary or desirable; and to set out the grounds, and provide the procedure, for the appointment of conservators, receivers, and supervisory representatives.

1952—Subsec. (c). Act July 14, 1952, inserted penultimate sentence to first par.

1951—Subsec. (h). Act Oct. 20, 1951, inserted ''date, and except, in the case of taxable years beginning after December 31, 1951, income, war-profits, and excess-profits taxes''.

1948—Subsec. (i). Act July 3, 1948, permitted any Federal savings and loan association to convert into a savings and loan type of organization or a mutual savings bank pursuant to the law of the State in which the principal office of the association is located.

1947—Subsec. (c). Act Aug. 6, 1947, liberalized provisions with respect to loans made by Federal savings and loan associations.

1939—Subsec. (h). Act Aug. 10, 1939, inserted exception contained within first parenthetical.

1935—Subsec. (c). Act May 28, 1935, inserted last proviso.

1934—Subsecs. (i) to (k). Act Apr. 27, 1934, amended subsec. (i) and added subsecs. (j) and (k).

CHANGE OF NAME

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

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(12)(A) of Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1603(d)(8) of Pub. L. 102–550 provided that the amendment made by that section is effective on the effective date of the amendment made by section 133(d)(1) of Pub. L. 102–242. See Effective Date of 1991 Amendment note below.

Amendment by section 1606(f) 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, except that where amendment is to any provision of law added or amended by Pub. L. 102–242 effective after Dec. 19, 1992, then amendment by Pub. L. 102–550 effective on effective date of amendment by Pub. L. 102–242, see section 1609 of Pub. L. 102–550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 131(f) of Pub. L. 102–242 provided that: ''The amendments made by this section [enacting section 1831*o* of this title and amending this section and sections 1813 and 1818 of this title] shall become effective 1 year after the date of enactment of this Act [Dec. 19, 1991].''

Amendment by section 133(d) of Pub. L. 102–242 effective 1 year after Dec. 19, 1991, see section 133(g) of Pub. L. 102–242, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 14(a)(2) of Pub. L. 97–457 provided that: ''The amendment made by paragraph (1) [amending this section] shall be deemed to have taken effect upon the enactment of Public Law 97–320 [Oct. 15, 1982].''

EFFECTIVE AND TERMINATION DATES OF 1982 AMENDMENT

Prior to its repeal by section 509(a) of Pub. L. 100–86, section 141 of Pub. L. 97–320, as amended by Pub. L. 99–120, § 6(a), Oct. 8, 1985, 99 Stat. 504; Pub. L. 99–278, § 1(a), Apr. 24, 1986, 100 Stat. 397; Pub. L. 99–400, § 1(a), Aug. 27, 1986, 100 Stat. 902; Pub. L. 99–452, § 1(a), Oct. 8, 1986, 100 Stat. 1140, provided that:

''(a) Effective on October 13, 1986—

''(1) section 13(c)(5) of the Federal Deposit Insurance Act [section 1823(c)(5) of this title], as added by section 111 of this Act, shall be repealed;

''(2) subparagraphs (F) and (G) of section 5(*o*)(2) of the Home Owners' Loan Act of 1933 [section 1464(*o*)(2) of this title], as added by section 112 of this Act, shall be repealed;

''(3) the provision of law amended by section 116 of this Act [section 1823(f) of this title] shall be amended to read as it would without such amendment;

''(4) the provisions of law amended by subsections (a) [section 1843(c)(8) of this title] and (c) [section 1842(d) of this title] of section 118 shall be amended to read as they would without such amendments;

''(5) the provision of law amended by section 121 of this Act [section 1464(p) of this title] shall be amended to read as it would without such amendment;

''(6) the provisions of law amended by subsections (d) through (g) of section 122 of this Act [section 1729(c), (d) of this title] shall be amended to read as they would without such amendments;

''(7) the provisions of law amended by section 123 of this Act [section 1730a(e)(2), (m) of this title] shall be amended to read as they would without such amendments; and

''(8) the provisions of law amended by sections 131 [section 1785(h), (i) of this title] and 132 [section 1786(b)(2), (h)–(p) of this title] shall be amended to read as they would without such amendments.

''(b) The repeal or termination by subsection (a) of any amendment made by this Act shall have no effect on any action taken or authorized while such amendment was in effect.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 304 of Pub. L. 96–221 effective at close of Mar. 31, 1980, see section 306 of Pub. L. 96–221, set out as a note under section 371a of this title.

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Amendment by Pub. L. 96–161 effective Dec. 31, 1979, with that amendment to remain in effect until close of Mar. 31, 1980, see section 104 of Pub. L. 96–161, set out as a note under section 371a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 107(e)(3) of Pub. L. 95–630, relating to imposition of civil penalties, applicable to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95–630, set out as a note under section 93 of this title.

Amendment by section 1701 of Pub. L. 95–630 effective Nov. 10, 1978, see section 1703 of Pub. L. 95–630, set out as a note under section 1451 of this title.

Amendment by Pub. L. 95–630 effective, except as otherwise provided, on expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95–630 set out as an Effective Date note under section 375b of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–495 effective on thirtieth day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93–495, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–100 effective Aug. 16, 1973, see section 8 of Pub. L. 93–100, set out as an Effective Date note under section 1469 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 101(b) of Pub. L. 89–695 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall be effective only with respect to proceedings commenced on or after the date of enactment of this Act [Oct. 16, 1966]. Section 5(d) of the Home Owners' Loan Act of 1933 [this section] as in effect immediately prior to the date of enactment of this Act shall continue in effect with respect to any proceedings commenced prior to such date.''

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91–609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89–695 which had provided that: ''The provisions of titles I and II of this Act [amending this section and sections 1730, 1813, 1817 to 1820 of this title, repealing section 77 of this title, and enacting provisions set out as notes under this section and sections 1730 and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted.''

EFFECTIVE DATE OF 1962 AMENDMENT

Section 6(g)(4) of Pub. L. 87–834, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''Subsection (e) of this section [amending this section and section 4382 of Title 26, Internal Revenue Code] shall become effective on January 1, 1963, except that—

''(A) in the case of the tax imposed by section 4251 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4251 of title 26], such subsection shall apply only with respect to amounts paid pursuant to bills rendered after December 31, 1962; and

''(B) in the case of the tax imposed by section 4261 of such Code [section 4261 of title 26], such subsection shall apply only with respect to transportation beginning after December 31, 1962.''

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–857 effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as an Effective Date note preceding Part 1 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1951 AMENDMENT

Amendment by act Oct. 20, 1951, applicable only with respect to taxable years beginning after Dec. 31, 1951, see section 313(j) of act Oct. 20, 1951.

Section 615 of act Oct. 20, 1951, provided that: ''No amendment made by this Act [see Tables for classification] shall apply in any case where its application would be contrary to any treaty obligation of the United States.''

SHORT TITLE OF 1974 AMENDMENT

Section 701 of title VII of Pub. L. 93–383 provided that: ''This title [amending this section and sections 371, 1757, 1759, 1761b, 1761d, 1763, 1772, 1782, 1786, and 1788 of this title] may be cited as the 'Consumer Home Mortgage Assistance Act of 1974'.''

SHORT TITLE OF 1966 AMENDMENT

Section 1 of Pub. L. 89–695 provided: ''That this Act [amending this section and sections 1724, 1728, 1730, 1730a, 1813, and 1817 to 1821 of this title, repealing section 77 of this title, and enacting provisions set out as notes under this section and sections 1724, 1730, and 1813 of this title] may be cited as the 'Financial Institutions Supervisory Act of 1966'.''

EFFECTIVE DATE OF REGULATIONS PRESCRIBED UNDER 1986 AMENDMENT

Section 1364(e) of Pub. L. 99–570 provided that: ''The regulations required to be prescribed under the amendments made by section 1359 [amending this section and sections 1730, 1786, and 1818 of this title] shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act [Oct. 27, 1986].''

TRANSITIONAL RULES REGARDING CERTAIN LOANS

Section 305(a), (b) of Pub. L. 101–73 provided that:

''(a) DIVESTITURE OF CERTAIN LOANS AND INVESTMENTS NOT REQUIRED.—The limitations on loans and investments contained in section 5(c) of the Home Owners' Loan Act [12 U.S.C. 1464(c)], as amended by section 301, do not require the divestiture of any loan or investment that was lawful when made under the provisions of such section as those provisions were in effect at the time such loan or investment was made.

''(b) LOANS SECURED BY NONRESIDENTIAL REAL PROPERTY.—

''(1) IN GENERAL.—The Director of the Office of Thrift Supervision may, by order, permit a Federal savings association to exceed the limitation set forth in section 5(c)(2)(B)(i) of the Home Owners' Loan Act [12 U.S.C. 1464(c)(2)(B)(i)] during the period beginning on the date of enactment of this Act [Aug. 9, 1989] and ending on June 1, 1991, if the Director determines that—

''(A) there is a reasonable prospect that the savings association can be in compliance, not later than June 1, 1991, with the capital standards prescribed under section 5(t) of the Home Owners' Loan Act; and

''(B) the increased authority—

''(i) is consistent with prudent operating practices, and

''(ii) is in accordance with a plan submitted by the savings association for—

''(I) an orderly transition to compliance with section 5(c)(2)(B)(i), or

''(II) an orderly conversion to a bank charter.

''(2) OTHER EXEMPTIVE AUTHORITY NOT AFFECTED.—The authority granted by paragraph (1) is in addition to any authority of the Director under section 5(c)(2)(B)(ii) of the Home Owners' Loan Act.''

EXTENSION OF EMERGENCY ACQUISITION AND NET WORTH GUARANTEE PROVISIONS OF PUB. L. 97–320

Section 509(c) of Pub. L. 100–86 provided that: ''No amendment made by part D [section 141, formerly set out as an Effective and Termination Dates of 1982 Amendment note above] of title I or section 206 [set out as an Effective and Termination Dates of 1982 Amendment note under section 1729 of this title] of the Garn-St Germain Depository Institutions Act of 1982 [Pub. L. 97–320], as in effect before the date of the enactment of

this Act [Aug. 10, 1987], to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act and any such provision of law shall be in effect as if no such amendment had been made before such date of enactment.''

Pub. L. 99–452, § 1(c), Oct. 8, 1986, 100 Stat. 1140, provided that: ''No amendment made by section 141(a) or section 206(a) of the Garn-St Germain Depository Institutions Act of 1982 [set out as Effective and Termination Dates of 1982 Amendment notes under sections 1464 and 1729 of this title], as in effect on the day before the date of the enactment of this Act [Oct. 8, 1986], to any other provision of law shall be deemed to have taken effect before such date of enactment and any such provision of law shall be in effect as if no such amendment had taken effect before such date of enactment.''

Pub. L. 99–400, § 1(c), Aug. 27, 1986, 100 Stat. 902, provided that: ''Sections 141(a) and 206(a) of the Garn-St Germain Depository Institutions Act of 1982 [set out as Effective and Termination Dates of 1982 Amendment notes under sections 1464 and 1729 of this title], as such sections are in effect on the day after the date of enactment of this Act [Aug. 27, 1986], shall apply as if such sections had been included in the Garn-St Germain Depository Institutions Act of 1982 on the date of the enactment of such Act [Oct. 15, 1982], no amendment made by any such section to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act, and any such provision of law shall be in effect as if no such amendment had taken effect before the date of the enactment of this Act.''

REPEALS

Amendment of this section by section 102 of Pub. L. 96–161, cited as a credit to this section, was repealed at the close of Mar. 31, 1980, by section 307 of Pub. L. 96–221, and substantially identical provisions were enacted by section 304 of Pub. L. 96–221, such amendments to take effect at the close of Mar. 31, 1980.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1422b, 1462, 1463, 1467, 1467a, 1813, 1817, 1818, 1821, 1823, 1828, 1831e, 1831*o* of this title; title 15 sections 18a, 78m, 78*o*–5; title 31 sections 3121, 9110.

§ 1465. Repealed. Pub. L. 106–569, title XII, § 1201(a), Dec. 27, 2000, 114 Stat. 3032

Section, acts June 13, 1933, ch. 64, § 6, 48 Stat. 134; Apr. 27, 1934, ch. 168, § 11, 48 Stat. 647; May 28, 1935, ch. 150, § 19, 49 Stat. 297; Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 313, related to liquid asset requirements.

§ 1466. Applicability

The provisions of this chapter shall apply to the United States and to Puerto Rico, Guam, and the Virgin Islands.

(June 13, 1933, ch. 64, § 7, 48 Stat. 134; July 14, 1952, ch. 723, § 10(b), 66 Stat. 604; Pub. L. 86–70, § 9(b), June 25, 1959, 73 Stat. 142; Pub. L. 86–624, § 5(b), July 12, 1960, 74 Stat. 411; Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 315.)

AMENDMENTS

1989—Pub. L. 101–73 amended section generally. Prior to amendment, section read as follows: ''The provisions of this chapter shall apply to the continental United States (including Alaska), to the State of Hawaii, and to Puerto Rico, Guam and the Virgin Islands.''

1960—Pub. L. 86–624 substituted ''State of Hawaii'' for ''Territory of Hawaii''.

1959—Pub. L. 86–70 substituted ''continental United States (including Alaska), to the Territory of Hawaii'' for ''continental United States, to the Territories of Alaska and Hawaii''.

1952—Act July 14, 1952, inserted ''Guam''.

§ 1466a. District associations

(a) In general

The Director shall, with respect to all incorporated or unincorporated building, building or loan, building and loan, or homestead associations, and similar institutions, of or transacting or doing business in the District of Columbia, or maintaining any office in the District of Columbia (other than Federal savings associations), have the same powers and functions as to examination, operation, and regulation as the Director has with respect to Federal savings associations.

(b) Additional powers

Any such association or institution incorporated under the laws of, or organized in, the District of Columbia shall have in addition to any existing statutory authority such statutory authority as is vested in Federal savings associations.

(c) Charter amendments

Charters, certificates of incorporation, articles of incorporation, constitutions, bylaws, or other organic documents of associations or institutions referred to in subsection (b) of this section may, without regard to anything contained therein or otherwise, be amended in such manner and to such extent and upon such votes if any as the Director may by regulation or otherwise provide.

(d) Limitation

Nothing in this section shall cause, or permit the Director to cause, District of Columbia associations to be or become Federal savings associations, or require the Director to impose on District of Columbia associations the same regulations as are imposed on Federal savings associations.

(June 13, 1933, ch. 64, § 8, as added Pub. L. 91–609, title IX, § 913, Dec. 31, 1970, 84 Stat. 1815; amended Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 315.)

PRIOR PROVISIONS

A prior section 8 of act June 13, 1933, ch. 64, 48 Stat. 134, was classified to section 1467 of this title, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

AMENDMENTS

1989—Pub. L. 101–73 amended section generally, substituting provisions relating to Director and Federal savings associations for former provisions relating to Federal Home Loan Bank Board and Federal savings and loan associations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 78c.

§ 1467. Examination fees

(a) Examination of savings associations

The cost of conducting examinations of savings associations pursuant to section 1464(d) of this title shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

(b) Examination of affiliates

The cost of conducting examinations of affiliates of savings associations pursuant to this chapter may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.

(c) Assessment against association in case of affiliate's refusal to pay

(1) In general

Subject to paragraph (2), if any affiliate of any savings association—

(A) refuses to pay any assessment under subsection (b) of this section; or

(B) fails to pay any such assessment before the end of the 60-day period beginning on the date of the assessment,

the Director may assess such cost against, and collect such cost from, such savings association.

(2) Affiliate of more than 1 savings association

If any affiliate referred to in paragraph (1) is an affiliate of more than 1 savings association, the assessment with respect to the affiliate against, and collected from, any affiliated savings association in such proportions as the Director may prescribe.

(d) Civil money penalty for affiliate's refusal to cooperate

(1) Penalty imposed

If any affiliate of any savings association—

(A) refuses to permit any examiner appointed by the Director to make an examination; or

(B) refuses to provide any information required to be disclosed in the course of any examination,

the savings association shall forfeit and pay a civil penalty of not more than $5,000 for each day that any such refusal continues.

(2) Assessment and collection

Any penalty imposed under paragraph (1) shall be assessed and collected by the Director, in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)].

(e) Regulations

Only the Director may prescribe regulations with respect to—

(1) the computation of, and the assessment for, the cost of conducting examinations pursuant to this section; and

(2) the collection and use of such assessments and any fees under this section.

Such regulations may establish formulas to determine a fee or schedule of fees to cover the costs of examinations and also to cover the cost of processing applications, filings, notices, and requests for approvals by the Director or the Director's designee.

(f) Collection through FDIC or Federal home loan banks

The Corporation or the Federal home loan banks shall, upon request of and by agreement with the Director, collect fees and assessments on behalf of the Director and be reimbursed for the actual cost of collection.

(g) Costs of other examinations

(1) Examination of fiduciary activities

In addition to any assessment imposed pursuant to subsection (a) of this section, the cost of conducting examinations of fiduciary activities of savings associations which exercise fiduciary powers (including savings associations or similar institutions in the District of Columbia) shall be assessed by the Director against such savings associations (or similar institutions).

(2) Examinations in excess of 2 per calendar year

If any savings association or affiliate of a savings association is examined by the Director, or the Corporation, as the case may be, more than 2 times in any calendar year, the cost of conducting such additional examinations shall be assessed, in addition to any assessment imposed pursuant to subsection (a) of this section, by the Director or the Corporation, as the case may be, against such savings association or affiliate.

(h) Additional information

Any savings association and any affiliate of any savings association shall provide the Director with access to any information or report with respect to any examination made by any public regulatory authority and furnish any additional information with respect thereto as the Director may require.

(i) Treatment of examination assessments

(1) Deposits

Amounts received by the Director from assessments under this section (other than an assessment under subsection (d)(2) of this section) or section 1467a(b)(4) of this title may be deposited in the manner provided in section 5234 of the Revised Statutes [12 U.S.C. 192] with respect to assessments by the Comptroller of the Currency.

(2) Assessments are not Government funds

The amounts received by the Director from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

(3) Assessments are not subject to apportionment of funds

Notwithstanding any other provision of law, the amounts received by the Director from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31 or under any other authority.

(j) Processing fee

The Director may, in the Director's sole discretion, assess against any person that submits to the Director an application, filing, notice, or request a fee to cover the cost of processing such submission.

(k) Fees for examinations and supervisory activities

The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of

the Federal Deposit Insurance Act [12 U.S.C. 1813], fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.

(*l*) Working capital

The Director is authorized to impose fees and assessments pursuant to subsections (a), (b), (e), and (k) of this section, in excess of actual expenses for any given year, to permit the Director to maintain a working capital fund. The Director shall remit to the payors of such fees and assessments any funds collected in excess of what he deems necessary to maintain such working capital fund.

(m) Use of funds

The Director is authorized to use the combined resources retained through fees and assessments imposed pursuant to this section to pay all direct and indirect salary and administrative expenses of the Office, including contracts and purchases of property and services, and the direct and indirect expenses of the examinations and supervisory activities of the Office.

(June 13, 1933, ch. 64, § 9, as added Pub. L. 100–86, title IV, § 402(a), Aug. 10, 1987, 101 Stat. 605; amended Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 316; Pub. L. 102–242, title I, § 114(c), Dec. 19, 1991, 105 Stat. 2248.)

PRIOR PROVISIONS

A prior section 1467, acts June 13, 1933, ch. 64, § 8, 48 Stat. 134; Apr. 27, 1934, ch. 168, § 12, 48 Stat. 647; May 28, 1935, ch. 150, §§ 20, 21, 49 Stat. 298, related to penalties, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. See sections 223, 433, 493, 657, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

A prior section 9 of act June 13, 1933, was renumbered section 11 and is classified to section 1468 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–242, § 114(c)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The cost of conducting examinations of savings associations pursuant to section 1464(d) of this title shall be assessed by the Director against each such savings association in proportion to the assets or resources of the savings association.''

Subsec. (b). Pub. L. 102–242, § 114(c)(1), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The cost of conducting examinations of affiliates of savings associations pursuant to this chapter may be assessed by the Director against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of any such examination.''

Subsec. (k). Pub. L. 102–242, § 114(c)(2), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: ''The Director may assess against institutions for which the Director is the appropriate Federal banking agency, within the meaning of section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office. Such fees shall be imposed in proportion of the assets or resources of the institutions. The fees may be imposed more frequently than annually at the discretion of the Director. The annual rate of such fees shall be the same for all institutions subject to such fees.''

1989—Pub. L. 101–73 amended section generally, substituting subsecs. (a) to (m) relating to examination fees for former subsecs. (a) to (f) relating to accounting principles and other standards and requirements.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–73 relating to civil penalties applicable with respect to violations committed and activities engaged in after Aug. 9, 1989, except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities (1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and (2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 1813 of this title) occurring before Aug. 9, 1989, see section 305(c) of Pub. L. 101–73, set out as a note under section 1461 of this title.

SUBMISSION OF PROPOSED REGULATIONS TO CONGRESS

Section 402(c) of Pub. L. 100–86 provided that: ''Not later than the end of the 90-day period beginning on the date of the enactment of this Act [Aug. 10, 1987]—

''(1) the Federal Home Loan Bank Board shall submit a copy of the proposed regulations required to be prescribed under the amendment made by subsection (a) [enacting this section] to the Congress; and

''(2) the Federal Savings and Loan Insurance Corporation shall submit a copy of the proposed regulations required to be prescribed under the amendment made by subsection (b) [enacting section 1730h of this title] to the Congress.''

EFFECTIVE DATE OF REGULATIONS

Section 402(d) of Pub. L. 100–86 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), any regulation required to be prescribed under the amendment made by subsections (a) and (b) [enacting sections 1467 and 1730h of this title] shall be implemented not later than the end of the 150-day period beginning on the date of the enactment of this Act [Aug. 10, 1987].

''(2) UNIFORM GAAP ACCOUNTING STANDARDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the regulations required to be prescribed pursuant to subsection (b) of the amendments made by subsections (a) and (b) of this section shall take effect on December 31, 1987.

''(B) COMPLIANCE AT A LATER DATE.—If any association or insured institution demonstrates to the satisfaction of the Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, as the case may be, that it is not feasible for such association or institution to achieve compliance with the regulations referred to in subparagraph (A) by the date contained in such subparagraph, the Board or Corporation may approve a plan submitted by an association or insured institution which allows such association or institution to comply with such regulations at a later date to the extent such later date is the earlier of—

''(i) the date by which, in the determination of the Board or Corporation, it is feasible for such association or insured institution to achieve compliance with such regulations; or

''(ii) December 31, 1993.''

SUNSET AND SAVINGS PROVISION

Subsec. (a)(2), (3), (5) ceases to be effective on date that notice of completion of all net new borrowing by Financing Corporation is published in Federal Register [Mar. 30, 1992, 57 F.R. 10763], with such termination not to be construed to affect or limit any authority of Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law, see section 416 of Pub. L. 100–86, set out as a note under section 1441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1817 of this title.

§ 1467a. Regulation of holding companies

(a) Definitions

(1) In general

As used in this section, unless the context otherwise requires—

(A) Savings association

The term ''savings association'' includes a savings bank or cooperative bank which is deemed by the Director to be a savings association under subsection (*l*) of this section.

(B) Uninsured institution

The term ''uninsured institution'' means any depository institution the deposits of which are not insured by the Federal Deposit Insurance Corporation.

(C) Company

The term ''company'' means any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an instrumentality of the United States or any State.

(D) Savings and loan holding company

(i) In general

Except as provided in clause (ii), the term ''savings and loan holding company'' means any company that directly or indirectly controls a savings association or that controls any other company that is a savings and loan holding company.

(ii) Exclusion

The term ''savings and loan holding company'' does not include a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], or to any company directly or indirectly controlled by such company (other than a savings association).

(E) Multiple savings and loan holding company

The term ''multiple savings and loan holding company'' means any savings and loan holding company which directly or indirectly controls 2 or more savings associations.

(F) Diversified savings and loan holding company

The term ''diversified savings and loan holding company'' means any savings and loan holding company whose subsidiary savings association and related activities as permitted under paragraph (2) of subsection (c) of this section represented, on either an actual or a pro forma basis, less than 50 percent of its consolidated net worth at the close of its preceding fiscal year and of its consolidated net earnings for such fiscal year, as determined in accordance with regulations issued by the Director.

(G) Subsidiary

The term ''subsidiary'' has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(H) Affiliate

The term ''affiliate'' of a savings association means any person which controls, is controlled by, or is under common control with, such savings association.

(I) Bank holding company

The terms ''bank holding company'' and ''bank'' have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956 [12 U.S.C. 1841].

(J) Acquire

The term ''acquire'' has the meaning given to such term in section 13(f)(8) of the Federal Deposit Insurance Act [12 U.S.C. 1823(f)(8)].

(2) Control

For purposes of this section, a person shall be deemed to have control of—

(A) a savings association if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares of such savings association, or controls in any manner the election of a majority of the directors of such association;

(B) any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares or rights of such other company, or controls in any manner the election or appointment of a majority of the directors or trustees of such other company, or is a general partner in or has contributed more than 25 percent of the capital of such other company;

(C) a trust if the person is a trustee thereof; or

(D) a savings association or any other company if the Director determines, after reasonable notice and opportunity for hearing, that such person directly or indirectly exercises a controlling influence over the management or policies of such association or other company.

(3) Exclusions

Notwithstanding any other provision of this subsection, the term ''savings and loan holding company'' does not include—

(A) any company by virtue of its ownership or control of voting shares of a savings association or a savings and loan holding company acquired in connection with the underwriting of securities if such shares are held only for such period of time (not exceeding 120 days unless extended by the Director) as will permit the sale thereof on a reasonable basis; and

(B) any trust (other than a pension, profit-sharing, shareholders', voting, or business

trust) which controls a savings association or a savings and loan holding company if such trust by its terms must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, and is (i) in existence on June 26, 1967, or (ii) a testamentary trust created on or after June 26, 1967.

(4) Special rule relating to qualified stock issuance

No savings and loan holding company shall be deemed to control a savings association solely by reason of the purchase by such savings and loan holding company of shares issued by such savings association, or issued by any savings and loan holding company (other than a bank holding company) which controls such savings association, in connection with a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D) of this section, unless the acquiring savings and loan holding company, directly or indirectly, or acting in concert with 1 or more other persons, or through 1 or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 15 percent of the voting shares of such savings association or holding company.

(b) Registration and examination

(1) In general

Within 90 days after becoming a savings and loan holding company, each savings and loan holding company shall register with the Director on forms prescribed by the Director, which shall include such information, under oath or otherwise, with respect to the financial condition, ownership, operations, management, and intercompany relationships of such holding company and its subsidiaries, and related matters, as the Director may deem necessary or appropriate to carry out the purposes of this section. Upon application, the Director may extend the time within which a savings and loan holding company shall register and file the requisite information.

(2) Reports

Each savings and loan holding company and each subsidiary thereof, other than a savings association, shall file with the Director, and the regional office of the Director of the district in which its principal office is located, such reports as may be required by the Director. Such reports shall be made under oath or otherwise, and shall be in such form and for such periods, as the Director may prescribe. Each report shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Director may require.

(3) Books and records

Each savings and loan holding company shall maintain such books and records as may be prescribed by the Director.

(4) Examinations

Each savings and loan holding company and each subsidiary thereof (other than a bank) shall be subject to such examinations as the Director may prescribe. The cost of such examinations shall be assessed against and paid by such holding company. Examination and other reports may be furnished by the Director to the appropriate State supervisory authority. The Director shall, to the extent deemed feasible, use for the purposes of this subsection reports filed with or examinations made by other Federal agencies or the appropriate State supervisory authority.

(5) Agent for service of process

The Director may require any savings and loan holding company, or persons connected therewith if it is not a corporation, to execute and file a prescribed form of irrevocable appointment of agent for service of process.

(6) Release from registration

The Director may at any time, upon the Director's own motion or upon application, release a registered savings and loan holding company from any registration theretofore made by such company, if the Director determines that such company no longer has control of any savings association.

(c) Holding company activities

(1) Prohibited activities

Except as otherwise provided in this subsection, no savings and loan holding company and no subsidiary which is not a savings association shall—

(A) engage in any activity or render any service for or on behalf of a savings association subsidiary for the purpose or with the effect of evading any law or regulation applicable to such savings association;

(B) commence any business activity, other than the activities described in paragraph (2); or

(C) continue any business activity, other than the activities described in paragraph (2), after the end of the 2-year period beginning on the date on which such company received approval under subsection (e) of this section to become a savings and loan holding company subject to the limitations contained in this subparagraph.

(2) Exempt activities

The prohibitions of subparagraphs (B) and (C) of paragraph (1) shall not apply to the following business activities of any savings and loan holding company or any subsidiary (of such company) which is not a savings association:

(A) Furnishing or performing management services for a savings association subsidiary of such company.

(B) Conducting an insurance agency or escrow business.

(C) Holding, managing, or liquidating assets owned or acquired from a savings association subsidiary of such company.

(D) Holding or managing properties used or occupied by a savings association subsidiary of such company.

(E) Acting as trustee under deed of trust.

(F) Any other activity—

(i) which the Board of Governors of the Federal Reserve System, by regulation,

has determined to be permissible for bank holding companies under section 4(c) of the Bank Holding Company Act of 1956 [12 U.S.C. 1843(c)], unless the Director, by regulation, prohibits or limits any such activity for savings and loan holding companies; or

(ii) in which multiple savings and loan holding companies were authorized (by regulation) to directly engage on March 5, 1987.

(G) In the case of a savings and loan holding company, purchasing, holding, or disposing of stock acquired in connection with a qualified stock issuance if the purchase of such stock by such savings and loan holding company is approved by the Director pursuant to subsection (q)(1)(D) of this section.

(3) Certain limitations on activities not applicable to certain holding companies

Notwithstanding paragraphs (4) and (6) of this subsection, the limitations contained in subparagraphs (B) and (C) of paragraph (1) shall not apply to any savings and loan holding company (or any subsidiary of such company) which controls—

(A) only 1 savings association, if the savings association subsidiary of such company is a qualified thrift lender (as determined under subsection (m) of this section); or

(B) more than 1 savings association, if—

(i) all, or all but 1, of the savings association subsidiaries of such company were initially acquired by the company or by an individual who would be deemed to control such company if such individual were a company—

(I) pursuant to an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(c) or (k)] or section 408(m)[1] of the National Housing Act [12 U.S.C. 1730a(m)]; or

(II) pursuant to an acquisition in which assistance was continued to a savings association under section 13(i) of the Federal Deposit Insurance Act; and

(ii) all of the savings association subsidiaries of such company are qualified thrift lenders (as determined under subsection (m) of this section).

(4) Prior approval of certain new activities required

(A) In general

No savings and loan holding company and no subsidiary which is not a savings association shall commence, either de novo or by an acquisition (in whole or in part) of a going concern, any activity described in paragraph (2)(F)(i) of this subsection without the prior approval of the Director.

(B) Factors to be considered by Director

In considering any application under subparagraph (A) by any savings and loan holding company or any subsidiary of any such company which is not a savings association, the Director shall consider—

(i) whether the performance of the activity described in such application by the company or the subsidiary can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects of such activity (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices);

(ii) the managerial resources of the companies involved; and

(iii) the adequacy of the financial resources, including capital, of the companies involved.

(C) Director may differentiate between new and ongoing activities

In prescribing any regulation or considering any application under this paragraph, the Director may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

(D) Approval or disapproval by order

The approval or disapproval of any application under this paragraph by the Director shall be made in an order issued by the Director containing the reasons for such approval or disapproval.

(5) Grace period to achieve compliance

If any savings association referred to in paragraph (3) fails to maintain the status of such association as a qualified thrift lender, the Director may allow, for good cause shown, any company that controls such association (or any subsidiary of such company which is not a savings association) up to 3 years to comply with the limitations contained in paragraph (1)(C).

(6) Special provisions relating to certain companies affected by 1987 amendments

(A) Exception to 2-year grace period for achieving compliance

Notwithstanding paragraph (1)(C), any company which received approval under subsection (e) of this section to acquire control of a savings association between March 5, 1987, and August 10, 1987, shall not continue any business activity other than an activity described in paragraph (2) after August 10, 1987.

(B) Exemption for activities lawfully engaged in before March 5, 1987

Notwithstanding paragraph (1)(C) and subject to subparagraphs (C) and (D), any savings and loan holding company which received approval, before March 5, 1987, under subsection (e) of this section to acquire control of a savings association may engage, directly or through any subsidiary (other than a savings association subsidiary of such company), in any activity in which such company or such subsidiary was lawfully engaged on such date.

(C) Termination of subparagraph (B) exemption

The exemption provided under subparagraph (B) for activities engaged in by any

[1] See References in Text note below.

savings and loan holding company or a subsidiary of such company (which is not a savings association) which would otherwise be prohibited under paragraph (1)(C) shall terminate with respect to such activities of such company or subsidiary upon the occurrence (after August 10, 1987) of any of the following:

(i) The savings and loan holding company acquires control of a bank or an additional savings association (other than a savings association acquired pursuant to section 13(c) or 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(c) or (k)] or section 406(f) or 408(m)[1] of the National Housing Act [12 U.S.C. 1729(f) or 1730a(m)]).

(ii) Any savings association subsidiary of the savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986 [26 U.S.C. 7701(a)(19)].

(iii) The savings and loan holding company engages in any business activity—

(I) which is not described in paragraph (2); and

(II) in which it was not engaged on March 5, 1987.

(iv) Any savings association subsidiary of the savings and loan holding company increases the number of locations from which such savings association conducts business after March 5, 1987 (other than an increase which occurs in connection with a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act or section 408(m)[2] of the National Housing Act.

(v) Any savings association subsidiary of the savings and loan holding company permits any overdraft (including an intraday overdraft), or incurs any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft is the result of an inadvertent computer or accounting error that is beyond the control of both the savings association subsidiary and the affiliate.

(D) Order by Director to terminate subparagraph (B) activity

Any activity described in subparagraph (B) may also be terminated by the Director, after opportunity for hearing, if the Director determines, having due regard for the purposes of this title,[3] that such action is necessary to prevent conflicts of interest or unsound practices or is in the public interest.

(7) Foreign savings and loan holding company

Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not a savings association), which controls a single savings association on August 10, 1987, shall not be subject to this subsection with respect to any activities of such holding company which are conducted exclusively in a foreign country.

(8) Exemption for bank holding companies

Except for paragraph (1)(A), this subsection shall not apply to any company that is treated as a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956 [12 U.S.C. 1843], or any of its subsidiaries.

(9) Prevention of new affiliations between S&L holding companies and commercial firms

(A) In general

Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after May 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

(i) under paragraph (1)(C) or (2) of this subsection; or

(ii) for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956 [12 U.S.C. 1843(k)].

(B) Prevention of new commercial affiliations

Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

(C) Preservation of authority of existing unitary S&L holding companies

Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on May 4, 1999, or that becomes a savings and loan holding company pursuant to an application pending before the Office on or before that date, and that—

(i) meets and continues to meet the requirements of paragraph (3); and

(ii) continues to control not fewer than 1 savings association that it controlled on May 4, 1999, or that it acquired pursuant to an application pending before the Office on or before that date, or the successor to such savings association.

(D) Corporate reorganizations permitted

This paragraph does not prevent a transaction that—

(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan

[2] See References in Text note below.

[3] So in original. Act June 13, 1933, which is classified to this chapter, does not contain titles.

holding company or any savings association that is already a subsidiary of the savings and loan holding company.

(E) Authority to prevent evasions

The Director may issue interpretations, regulations, or orders that the Director determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination that, notwithstanding the form of a transaction, the transaction would in substance result in a company acquiring control of a savings association.

(F) Preservation of authority for family trusts

Subparagraphs (A) and (B) do not apply with respect to any trust that becomes a savings and loan holding company with respect to a savings association, if—

(i) not less than 85 percent of the beneficial ownership interests in the trust are continuously owned, directly or indirectly, by or for the benefit of members of the same family, or their spouses, who are lineal descendants of common ancestors who controlled, directly or indirectly, such savings association on May 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before May 4, 1999; and

(ii) at the time at which such trust becomes a savings and loan holding company, such ancestors or lineal descendants, or spouses of such descendants, have directly or indirectly controlled the savings association continuously since May 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before May 4, 1999.

(d) Transactions with affiliates

Transactions between any subsidiary savings association of a savings and loan holding company and any affiliate (of such savings association subsidiary) shall be subject to the limitations and prohibitions specified in section 1468 of this title.

(e) Acquisitions

(1) In general

It shall be unlawful for—

(A) any savings and loan holding company directly or indirectly, or through one or more subsidiaries or through one or more transactions—

(i) to acquire, except with the prior written approval of the Director, the control of a savings association or a savings and loan holding company, or to retain the control of such an association or holding company acquired or retained in violation of this section as heretofore or hereafter in effect;

(ii) to acquire, except with the prior written approval of the Director, by the process of merger, consolidation, or purchase of assets, another savings association or a savings and loan holding company, or all or substantially all of the assets of any such association or holding company;

(iii) to acquire, by purchase or otherwise, or to retain, except with the prior written approval of the Director, more than 5 percent of the voting shares of a savings association not a subsidiary, or of a savings and loan holding company not a subsidiary, or in the case of a multiple savings and loan holding company (other than a company described in subsection (c)(8) of this section), to acquire or retain, and the Director may not authorize acquisition or retention of, more than 5 percent of the voting shares of any company not a subsidiary which is engaged in any business activity other than the activities specified in subsection (c)(2) of this section. This clause shall not apply to shares of a savings association or of a savings and loan holding company—

(I) held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

(II) held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

(III) held in an account solely for trading purposes;

(IV) over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

(V) acquired in securing or collecting a debt previously contracted in good faith, during the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Director may permit if the Director determines that such an extension will not be detrimental to the public interest;

(VI) acquired under section 408(m)[4] of the National Housing Act [12 U.S.C. 1730a(m)] or section 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)];

(VII) held by any insurance company, as defined in section 2(a)(17) of the Investment Company Act of 1940 [15 U.S.C. 80a–2(a)(17)], except as provided in paragraph (6); or

(VIII) acquired pursuant to a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D) of this section;

except that the aggregate amount of shares held under this clause (other than under subclauses (I), (II), (III), (IV), and (VI)) may not exceed 15 percent of all outstanding shares or of the voting power of a savings association or savings and loan holding company; or

(iv) to acquire the control of an uninsured institution, or to retain for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Director may upon application by such company extend such one-year period from year to year, for an additional period not

[4] See References in Text note below.

exceeding 3 years, if the Director finds such extension is warranted and is not detrimental to the public interest; and

(B) any other company, without the prior written approval of the Director, directly or indirectly, or through one or more subsidiaries or through one or more transactions, to acquire the control of one or more savings associations, except that such approval shall not be required in connection with the control of a savings association, (i) acquired by devise under the terms of a will creating a trust which is excluded from the definition of ''savings and loan holding company'' under subsection (a) of this section, (ii) acquired in connection with a reorganization in which a person or group of persons, having had control of a savings association for more than 3 years, vests control of that association in a newly formed holding company subject to the control of the same person or group of persons, or (iii) acquired by a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], or any company controlled by such bank holding company. The Director shall approve an acquisition of a savings association under this subparagraph unless the Director finds the financial and managerial resources and future prospects of the company and association involved to be such that the acquisition would be detrimental to the association or the insurance risk of the Savings Association Insurance Fund or Bank Insurance Fund, and shall render a decision within 90 days after submission to the Director of the complete record on the application.

Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.

(2) Factors to be considered

The Director shall not approve any acquisition under subparagraph (A)(i) or (A)(ii), or of more than one savings association under subparagraph (B) of paragraph (1) of this subsection, any acquisition of stock in connection with a qualified stock issuance, any acquisition under paragraph (4)(A), or any transaction under section 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)], except in accordance with this paragraph. In every case, the Director shall take into consideration the financial and managerial resources and future prospects of the company and association involved, the effect of the acquisition on the association, the insurance risk to the Savings Association Insurance Fund or the Bank Insurance Fund, and the convenience and needs of the community to be served, and shall render a decision within 90 days after submission to the Director of the complete record on the application. Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association. Before approving any such acquisition, except a transaction under section 13(k) of the Federal Deposit Insurance Act, the Director shall request from the Attorney General and consider any report rendered within 30 days on the competitive factors involved. The Director shall not approve any proposed acquisition—

(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States,

(B) the effect of which in any section of the country may be substantially to lessen competition, or tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served,

(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this chapter, or

(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.

(3) Interstate acquisitions

No acquisition shall be approved by the Director under this subsection which will result in the formation by any company, through one or more subsidiaries or through one or more transactions, of a multiple savings and loan holding company controlling savings associations in more than one State, unless—

(A) such company, or a savings association subsidiary of such company, is authorized to acquire control of a savings association subsidiary, or to operate a home or branch office, in the additional State or States pursuant to section 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)];

(B) such company controls a savings association subsidiary which operated a home or branch office in the additional State or States as of March 5, 1987; or

(C) the statutes of the State in which the savings association to be acquired is located permit a savings association chartered by such State to be acquired by a savings association chartered by the State where the acquiring savings association or savings and loan holding company is located or by a holding company that controls such a State chartered savings association, and such statutes specifically authorize such an acquisition by language to that effect and not merely by implication.

(4) Acquisitions by certain individuals

(A) In general

Notwithstanding subsection (h)(2) of this section, any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, may acquire control of any savings association not a subsidiary of such savings and loan holding company with the prior written approval of the Director.

(B) Treatment of certain holding companies

If any individual referred to in subparagraph (A) controls more than 1 savings and loan holding company or more than 1 savings association, any savings and loan holding company controlled by such individual shall be subject to the activities limitations contained in subsection (c) of this section to the same extent such limitations apply to multiple savings and loan holding companies, unless all or all but 1 of the savings associations (including any institution deemed to be a savings association under subsection (1)[5] of this section) controlled directly or indirectly by such individual was acquired pursuant to an acquisition described in subclause (I) or (II) of subsection (c)(3)(B)(i) of this section.

(5) Acquisitions pursuant to certain security interests

This subsection and subsection (c)(2) of this section do not apply to any savings and loan holding company which acquired the control of a savings association or of a savings and loan holding company pursuant to a pledge or hypothecation to secure a loan, or in connection with the liquidation of a loan, made in the ordinary course of business. It shall be unlawful for any such company to retain such control for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Director may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Director finds such extension is warranted and would not be detrimental to the public interest.

(6) Shares held by insurance affiliates

Shares described in clause (iii)(VII) of paragraph (1)(A) shall not be excluded for purposes of clause (iii) of such paragraph if—

(A) all shares held under such clause (iii)(VII) by all insurance company affiliates of such savings association or savings and loan holding company in the aggregate exceed 5 percent of all outstanding shares or of the voting power of the savings association or savings and loan holding company; or

(B) such shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company.

(f) Declaration of dividend

Every subsidiary savings association of a savings and loan holding company shall give the Director not less than 30 days' advance notice of the proposed declaration by its directors of any dividend on its guaranty, permanent, or other nonwithdrawable stock. Such notice period shall commence to run from the date of receipt of such notice by the Director. Any such dividend declared within such period, or without the giving of such notice to the Director, shall be invalid and shall confer no rights or benefits upon the holder of any such stock.

(g) Administration and enforcement

(1) In general

The Director is authorized to issue such regulations and orders as the Director deems necessary or appropriate to enable the Director to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof.

(2) Investigations

The Director may make such investigations as the Director deems necessary or appropriate to determine whether the provisions of this section, and regulations and orders thereunder, are being and have been complied with by savings and loan holding companies and subsidiaries and affiliates thereof. For the purpose of any investigation under this section, the Director may administer oaths and affirmations, issue subpenas, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which may be relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in any State. The Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which any witness or company subpenaed resides or carries on business, for enforcement of any subpena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance.

(3) Proceedings

(A) In any proceeding under subsection (a)(2)(D) of this section or under paragraph (5) of this section,[6] the Director may administer oaths and affirmations, take or cause to be taken depositions, and issue subpenas. The Director may make regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to such proceedings may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any sub-

[5] So in original. Probably should be subsection ''(*l*)''.

[6] So in original. Probably should be ''subsection,''.

pena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(B) Any hearing provided for in subsection (a)(2)(D) of this section or under paragraph (5) of this section[7] shall be held in the Federal judicial district or in the territory in which the principal office of the association or other company is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5.

(4) Injunctions

Whenever it appears to the Director that any person is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this section or of any regulation or order thereunder, the Director may bring an action in the proper United States district court, or the United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce compliance with this section or any regulation or order, or to require the divestiture of any acquisition in violation of this section, or for any combination of the foregoing, and such courts shall have jurisdiction of such actions. Upon a proper showing an injunction, decree, restraining order, order of divestiture, or other appropriate order shall be granted without bond.

(5) Cease and desist orders

(A) Notwithstanding any other provision of this section, the Director may, whenever the Director has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association and is inconsistent with the sound operation of a savings association or with the purposes of this section or section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within 120 days or such longer period as the Director directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

(B) The Director may in the Director's discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith. Except as provided in subsection (j) of this section, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

(h) Prohibited acts

It shall be unlawful for—

(1) any savings and loan holding company or subsidiary thereof, or any director, officer, employee, or person owning, controlling, or holding with power to vote, or holding proxies representing, more than 25 percent of the voting shares, of such holding company or subsidiary, to hold, solicit, or exercise any proxies in respect of any voting rights in a savings association which is a mutual association;

(2) any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, to acquire control of any savings association not a subsidiary of such savings and loan holding company, unless such acquisition is approved by the Director pursuant to subsection (e)(4) of this section; or

(3) any individual, except with the prior approval of the Director, to serve or act as a director, officer, or trustee of, or become a partner in, any savings and loan holding company after having been convicted of any criminal offense involving dishonesty or breach of trust.

(i) Penalties

(1) Criminal penalty

(A) Whoever knowingly violates any provision of this section or being a company, violates any regulation or order issued by the Director under this section, shall be imprisoned not more than 1 year, fined not more than $100,000 per day for each day during which the violation continues, or both.

(B) Whoever, with the intent to deceive, defraud, or profit significantly, knowingly violates any provision of this section shall be fined not more than $1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.

(2)[8] Civil money penalty

(A) Penalty

Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

(B) Assessment

Any penalty imposed under subparagraph (A) may be assessed and collected by the Director in the manner provided in subpara-

[7] So in original. Probably should be ''subsection''.

[8] See Codification note below.

graphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)(E), (F), (G), (I)] for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(C) Hearing

The company or other person against whom any civil penalty is assessed under this paragraph shall be afforded a hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

(D) Disbursement

All penalties collected under authority of this paragraph shall be deposited into the Treasury.

(E) "Violate" defined

For purposes of this section, the term ''violate'' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(F) Regulations

The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

(3)[8] Civil money penalty

(A) Penalty

Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

(B) Assessment; etc.

Any penalty imposed under subparagraph (A) may be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)(E), (F), (G), (I)] for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(C) Hearing

The company or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

(D) Disbursement

All penalties collected under authority of this paragraph shall be deposited into the Treasury.

(E) "Violate" defined

For purposes of this section, the term ''violate'' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(F) Regulations

The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

(4) Redesignated (3)

(5) Notice under this section after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act [12 U.S.C. 1813(u)]) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after August 9, 1989).

(j) Judicial review

Any party aggrieved by an order of the Director under this section may obtain a review of such order by filing in the court of appeals of the United States for the circuit in which the principal office of such party is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director. Review of such proceedings shall be had as provided in chapter 7 of title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28.

(k) Savings clause

Nothing contained in this section, other than any transaction approved under subsection (e)(2) of this section or section 13 of the Federal Deposit Insurance Act [12 U.S.C. 1823], shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any act, action, or conduct in violation of the antitrust laws.

(*l*) Treatment of FDIC insured State savings banks and cooperative banks as savings associations

(1) In general

Notwithstanding any other provision of law, a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act [12 U.S.C. 1813(g)]) and a cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) upon application shall be deemed to be a savings association for the purpose of this section, if the Director determines that such bank is a qualified thrift lender (as determined under subsection (m) of this section).

(2) Failure to maintain qualified thrift lender status

If any savings bank which is deemed to be a savings association under paragraph (1) subsequently fails to maintain its status as a qualified thrift lender, as determined by the Director, such bank may not thereafter be a qualified thrift lender for a period of 5 years.

(m) Qualified thrift lender test

(1) In general

Except as provided in paragraphs (2) and (7), any savings association is a qualified thrift lender if—

(A) the savings association qualifies as a domestic building and loan association, as such term is defined in section 7701(a)(19) of title 26; or

(B)(i) the savings association's qualified thrift investments equal or exceed 65 percent of the savings association's portfolio assets; and

(ii) the savings association's qualified thrift investments continue to equal or exceed 65 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.

(2) Exceptions granted by Director

Notwithstanding paragraph (1), the Director may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Director deems necessary if—

(A) the Director determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

(B) the Director determines that—

(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(c) or (k)];

(ii) the acquired association will comply with the transition requirements of paragraph (7)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

(iii) the Director determines that the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

(3) Failure to become and remain a qualified thrift lender

(A) In general

A savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank) or be subject to subparagraph (B), except as provided in subparagraph (D).

(B) Restrictions applicable to savings associations that are not qualified thrift lenders

(i) Restrictions effective immediately

The following restrictions shall apply to a savings association beginning on the date on which the savings association should have become or ceases to be a qualified thrift lender:

(I) Activities

The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

(II) Branching

The savings association shall not establish any new branch office at any location at which a national bank located in the savings association's home State may not establish a branch office. For purposes of this subclause, a savings association's home State is the State in which the savings association's total deposits were largest on the date on which the savings association should have become or ceased to be a qualified thrift lender.

(III) Dividends

The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank.

(ii) Additional restrictions effective after 3 years

Beginning 3 years after the date on which a savings association should have become a qualified thrift lender, or the date on which the savings association ceases to be a qualified thrift lender, as applicable, the savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity, unless that investment or activity—

(I) would be permissible for the savings association if it were a national bank; and

(II) is permissible for the savings association as a savings association.

(C) Holding company regulation

Any company that controls a savings association that is subject to any provision of subparagraph (B) shall, within one year after the date on which the savings association should have become or ceases to be a qualified thrift lender, register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the savings association were a bank, as those terms are defined in the Bank Holding Company Act of 1956.

(D) Requalification

A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) or (C) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) on a monthly average basis in 9 out of the preceding 12 months and remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) and (C) as if all the periods described in subparagraphs (B)(ii) and (C) had expired.

(E) Deposit insurance assessments

Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)]. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

(i) December 31, 1993, or

(ii) the institution's change of status from a Savings Association Insurance Fund member to a Bank Insurance Fund member,

whichever is later.

(F) Exemption for specialized savings associations serving certain military personnel

Subparagraph (A) shall not apply to a savings association subsidiary of a savings and loan holding company if at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former members in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such members.

(G) Exemption for certain Federal savings associations

This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on August 9, 1989—

(i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or

(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law.

(H) No circumvention of exit moratorium

Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)].

(4) Definitions

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

(A) Actual thrift investment percentage

The term ''actual thrift investment percentage'' means the percentage determined by dividing—

(i) the amount of a savings association's qualified thrift investments, by

(ii) the amount of the savings association's portfolio assets.

(B) Portfolio assets

The term ''portfolio assets'' means, with respect to any savings association, the total assets of the savings association, minus the sum of—

(i) goodwill and other intangible assets;

(ii) the value of property used by the savings association to conduct its business; and

(iii) liquid assets of the type required to be maintained under section 1465 of this title, as in effect on the day before December 27, 2000, in an amount not exceeding the amount equal to 20 percent of the savings association's total assets.

(C) Qualified thrift investments

(i) In general

The term ''qualified thrift investments'' means, with respect to any savings association, the assets of the savings association that are described in clauses (ii) and (iii).

(ii) Assets includible without limit

The following assets are described in this clause for purposes of clause (i):

(I) The aggregate amount of loans held by the savings association that were made to purchase, refinance, construct, improve, or repair domestic residential housing or manufactured housing.

(II) Home-equity loans.

(III) Securities backed by or representing an interest in mortgages on domestic residential housing or manufactured housing.

(IV) Existing obligations of deposit insurance agencies.—Direct or indirect obligations of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation issued in accordance with the terms of agreements entered into prior to July 1, 1989, for the 10-year period beginning on the date of issuance of such obligations.

(V) New obligations of deposit insurance agencies.—Obligations of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the FSLIC Resolution Fund, and the Resolution Trust Corporation issued in accordance with the terms of agreements entered into on or after July 1, 1989, for the 5-year period beginning on the date of issuance of such obligations.

(VI) Shares of stock issued by any Federal home loan bank.

(VII) Loans for educational purposes, loans to small businesses, and loans made through credit cards or credit card accounts.

(iii) Assets includible subject to percentage restriction

The following assets are described in this clause for purposes of clause (i):

(I) 50 percent of the dollar amount of the residential mortgage loans originated by such savings association and sold within 90 days of origination.

(II) Investments in the capital stock or obligations of, and any other security issued by, any service corporation if such service corporation derives at least 80 percent of its annual gross revenues from activities directly related to purchasing, refinancing, constructing, improving, or repairing domestic residential real estate or manufactured housing.

(III) 200 percent of the dollar amount of loans and investments made to acquire, develop, and construct 1- to 4-family residences the purchase price of which is or is guaranteed to be not greater than 60 percent of the median value of comparable newly constructed 1- to 4-family residences within the local community in which such real estate is located, except that not more than 25 percent of the amount included under this subclause may consist of commercial properties related to the development if those properties are directly related to providing services to residents of the development.

(IV) 200 percent of the dollar amount of loans for the acquisition or improvement of residential real property, churches, schools, and nursing homes located within, and loans for any other purpose to any small businesses located within any area which has been identified by the Director, in connection with any review or examination of community reinvestment practices, as a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met.

(V) Loans for the purchase or construction of churches, schools, nursing homes, and hospitals, other than those qualifying under clause (IV), and loans for the improvement and upkeep of such properties.

(VI) Loans for personal, family, or household purposes (other than loans for personal, family, or household purposes described in clause (ii)(VII)).

(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(iv) Percentage restriction applicable to certain assets

The aggregate amount of the assets described in clause (iii) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 20 percent of a savings association's portfolio assets.

(v) Qualified thrift investments

The term ''qualified thrift investments'' excludes—

(I) except for home equity loans, that portion of any loan or investment that is used for any purpose other than those expressly qualifying under any subparagraph of clause (ii) or (iii); or

(II) goodwill or any other intangible asset.

(D) Credit card

The Director shall issue such regulations as may be necessary to define the term ''credit card''.

(E) Small business

The Director shall issue such regulations as may be necessary to define the term ''small business''.

(5) Consistent accounting required

(A) In determining the amount of a savings association's portfolio assets, the assets of any subsidiary of the savings association shall be consolidated with the assets of the savings association if—

(i) Assets of the subsidiary are consolidated with the assets of the savings association in determining the savings association's qualified thrift investments; or

(ii) Residential mortgage loans originated by the subsidiary are included pursuant to paragraph (4)(C)(iii)(I) in determining the savings association's qualified thrift investments.

(B) In determining the amount of a savings association's portfolio assets and qualified thrift investments, consistent accounting principles shall be applied.

(6) Special rules for Puerto Rico and Virgin Islands savings associations

(A) Puerto Rico savings associations

With respect to any savings association headquartered and operating primarily in Puerto Rico—

(i) the term ''qualified thrift investments'' includes, in addition to the items specified in paragraph (4)—

(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Commonwealth of Puerto Rico; and

(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Commonwealth of Puerto Rico; and

(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

(I) which is located within the Commonwealth of Puerto Rico; and

(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Commonwealth of Puerto Rico, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

(B) Virgin Islands savings associations

With respect to any savings association headquartered and operating primarily in the Virgin Islands—

(i) the term ''qualified thrift investments'' includes, in addition to the items specified in paragraph (4)—

(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Virgin Islands; and

(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Virgin Islands; and

(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

(I) which is located within the Virgin Islands; and

(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Virgin Islands, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

(7) Transitional rule for certain savings associations

(A) In general

If any Federal savings association in existence as a Federal savings association on August 9, 1989—

(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during period[9] ending on September 30, 1995.

(B) Subparagraph (B) requirements

A savings association meets the requirements of this subparagraph if, in the determination of the Director—

(i) the actual thrift investment percentage of such association does not, after August 9, 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

(ii) the amount by which—

(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on August 9, 1989:

For the following period:	The applicable percentage is:
July 1, 1991–September 30, 1992	25 percent
October 1, 1992–March 31, 1994	50 percent
April 1, 1994–September 30, 1995	75 percent
Thereafter	100 percent

(C) Actual thrift investment percentage

For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of ''actual thrift investment percentage'' that takes effect on July 1, 1991.

(n) Tying restrictions

A savings and loan holding company and any of its affiliates shall be subject to section 1464(q) of this title and regulations prescribed under such section, in connection with transactions involving the products or services of such company or affiliate and those of an affiliated savings association as if such company or affiliate were a savings association.

(*o*) Mutual holding companies

(1) In general

A savings association operating in mutual form may reorganize so as to become a holding company by—

[9] So in original. Probably should be ''the period''.

(A) chartering an interim savings association, the stock of which is to be wholly owned, except as otherwise provided in this section, by the mutual association; and

(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings association.

(2) Directors and certain account holders' approval of plan required

A reorganization is not authorized under this subsection unless—

(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the mutual savings association; and

(B) in the case of an association in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the association's charter and bylaws.

(3) Notice to the Director; disapproval period

(A) Notice required

At least 60 days prior to taking any action described in paragraph (1), a savings association seeking to establish a mutual holding company shall provide written notice to the Director. The notice shall contain such relevant information as the Director shall require by regulation or by specific request in connection with any particular notice.

(B) Transaction allowed if not disapproved

Unless the Director within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the savings association providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

(C) Grounds for disapproval

The Director may disapprove any proposed holding company formation only if—

(i) such disapproval is necessary to prevent unsafe or unsound practices;

(ii) the financial or management resources of the savings association involved warrant disapproval;

(iii) the savings association fails to furnish the information required under subparagraph (A); or

(iv) the savings association fails to comply with the requirement of paragraph (2).

(D) Retention of capital assets

In connection with the transaction described in paragraph (1), a savings association may, subject to the approval of the Director, retain capital assets at the holding company level to the extent that such capital exceeds the association's capital requirement established by the Director pursuant to sections[10] 1464(s) and (t) of this title.

[10] So in original. Probably should be "section".

(4) Ownership

(A) In general

Persons having ownership rights in the mutual association pursuant to section 1464(b)(1)(B) of this title or State law shall have the same ownership rights with respect to the mutual holding company.

(B) Holders of certain accounts

Holders of savings, demand or other accounts of—

(i) a savings association chartered as part of a transaction described in paragraph (1); or

(ii) a mutual savings association acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

(5) Permitted activities

A mutual holding company may engage only in the following activities:

(A) Investing in the stock of a savings association.

(B) Acquiring a mutual association through the merger of such association into a savings association subsidiary of such holding company or an interim savings association subsidiary of such holding company.

(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a savings association.

(D) Investing in a corporation the capital stock of which is available for purchase by a savings association under Federal law or under the law of any State where the subsidiary savings association or associations have their home offices.

(E) Engaging in the activities described in subsection (c)(2) or (c)(9)(A)(ii) of this section.

(6) Limitations on certain activities of acquired holding companies

(A) New activities

If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

(B) Grace period for divesting prohibited assets or discontinuing prohibited activities

Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

(7) Regulation

A mutual holding company shall be chartered by the Director and shall be subject to

such regulations as the Director may prescribe. Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this section regarding regulation of holding companies.

(8) Capital improvement

(A) Pledge of stock of savings association subsidiary

This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a savings association chartered as part of a transaction described in paragraph (1) to raise capital for such savings association.

(B) Issuance of nonvoting shares

This section shall not prohibit a savings association chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such association to any person other than the mutual holding company.

(9) Insolvency and liquidation

(A) In general

Notwithstanding any provision of law, upon—

(i) the default of any savings association—

(I) the stock of which is owned by any mutual holding company; and

(II) which was chartered in a transaction described in paragraph (1);

(ii) the default of a mutual holding company; or

(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11.

(B) Distribution of net proceeds

Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

(C) Recovery by Corporation

If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss.

(10) Definitions

For purposes of this subsection—

(A) Mutual holding company

The term ''mutual holding company'' means a corporation organized as a holding company under this subsection.

(B) Mutual association

The term ''mutual association'' means a savings association which is operating in mutual form.

(C) Default

The term ''default'' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

(p) Holding company activities constituting serious risk to subsidiary savings association

(1) Determination and imposition of restrictions

If the Director determines that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association, the Director may impose such restrictions as the Director determines to be necessary to address such risk. Such restrictions shall be issued in the form of a directive to the holding company and any of its subsidiaries, limiting—

(A) the payment of dividends by the savings association;

(B) transactions between the savings association, the holding company, and the subsidiaries or affiliates of either; and

(C) any activities of the savings association that might create a serious risk that the liabilities of the holding company and its other affiliates may be imposed on the savings association.

Such directive shall be effective as a cease and desist order that has become final.

(2) Review of directive

(A) Administrative review

After a directive referred to in paragraph (1) is issued, the savings and loan holding company, or any subsidiary of such holding company subject to the directive, may object and present in writing its reasons why the directive should be modified or rescinded. Unless within 10 days after receipt of such response the Director affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

(B) Judicial review

If the Director affirms or modifies a directive pursuant to subparagraph (A), any affected party may immediately thereafter petition the United States district court for the district in which the savings and loan holding company has its main office or in the United States District Court for the District of Columbia to stay, modify, terminate or set aside the directive. Upon a showing of extraordinary cause, the savings and loan holding company, or any subsidiary of such holding company subject to a directive, may petition a United States district court for relief without first pursuing or exhausting the administrative remedies set forth in this paragraph.

(q) Qualified stock issuance by undercapitalized savings associations or holding companies

(1) In general

For purposes of this section, any issue of shares of stock shall be treated as a qualified stock issuance if the following conditions are met:

(A) The shares of stock are issued by—

(i) an undercapitalized savings association; or

(ii) a savings and loan holding company which is not a bank holding company but which controls an undercapitalized savings association if, at the time of issuance, the savings and loan holding company is legally obligated to contribute the net proceeds from the issuance of such stock to the capital of an undercapitalized savings association subsidiary of such holding company.

(B) All shares of stock issued consist of previously unissued stock or treasury shares.

(C) All shares of stock issued are purchased by a savings and loan holding company that is registered, as of the date of purchase, with the Director in accordance with the provisions of subsection (b)(1) of this section.

(D) Subject to paragraph (2), the Director approved the purchase of the shares of stock by the acquiring savings and loan holding company.

(E) The entire consideration for the stock issued is paid in cash by the acquiring savings and loan holding company.

(F) At the time of the stock issuance, each savings association subsidiary of the acquiring savings and loan holding company (other than an association acquired in a transaction pursuant to subsection (c) or (k) of section 13 of the Federal Deposit Insurance Act [12 U.S.C. 1823(c) or (k)] or section 408(m)[11] of the National Housing Act [12 U.S.C. 1730a(m)]) has capital (after deducting any subordinated debt, intangible assets, and deferred, unamortized gains or losses) of not less than 6½ percent of the total assets of such savings association.

(G) Immediately after the stock issuance, the acquiring savings and loan holding company holds not more than 15 percent of the outstanding voting stock of the issuing undercapitalized savings association or savings and loan holding company.

(H) Not more than one of the directors of the issuing association or company is an officer, director, employee, or other representative of the acquiring company or any of its affiliates.

(I) Transactions between the savings association or savings and loan holding company that issues the shares pursuant to this section and the acquiring company and any of its affiliates shall be subject to the provisions of section 1468 of this title.

(2) Approval of acquisitions

(A) Additional capital commitments not required

The Director shall not disapprove any application for the purchase of stock in connection with a qualified stock issuance on the grounds that the acquiring savings and loan holding company has failed to undertake to make subsequent additional capital contributions to maintain the capital of the undercapitalized savings association at or above the minimum level required by the Director or any other Federal agency having jurisdiction.

(B) Other conditions

Notwithstanding subsection (a)(4) of this section, the Director may impose such conditions on any approval of an application for the purchase of stock in connection with a qualified stock issuance as the Director determines to be appropriate, including—

(i) a requirement that any savings association subsidiary of the acquiring savings and loan holding company limit dividends paid to such holding company for such period of time as the Director may require; and

(ii) such other conditions as the Director deems necessary or appropriate to prevent evasions of this section.

(C) Application deemed approved if not disapproved within 90 days

An application for approval of a purchase of stock in connection with a qualified stock issuance shall be deemed to have been approved by the Director if such application has not been disapproved by the Director before the end of the 90-day period beginning on the date such application has been deemed sufficient under regulations issued by the Director.

(3) No limitation on class of stock issued

The shares of stock issued in connection with a qualified stock issuance may be shares of any class.

(4) "Undercapitalized savings association" defined

For purposes of this subsection, the term ''undercapitalized savings association'' means any savings association—

(A) the assets of which exceed the liabilities of such association; and

(B) which does not comply with one or more of the capital standards in effect under section 1464(t) of this title.

(r) Penalty for failure to provide timely and accurate reports

(1) First tier

Any savings and loan holding company, and any subsidiary of such holding company, which—

(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

(i) fails to submit or publish any report or information required under this section

[11] See References in Text note below.

or regulations prescribed by the Director, within the period of time specified by the Director; or

(ii) submits or publishes any false or misleading report or information; or

(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such holding company or subsidiary shall have the burden of proving by a preponderence[12] of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

(2) Second tier

Any savings and loan holding company, and any subsidiary of such holding company, which—

(A) fails to submit or publish any report or information required under this section or under regulations prescribed by the Director, within the period of time specified by the Director; or

(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(3) Third tier

If any savings and loan holding company or any subsidiary of such a holding company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company or subsidiary, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(4) Assessment

Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)(E), (F), (G), (I)] (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

(5) Hearing

Any savings and loan holding company or any subsidiary of such a holding company against which any penalty is assessed under this subsection shall be afforded a hearing if such savings and loan holding company or such subsidiary, as the case may be, submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act [12 U.S.C. 1818(h)] shall apply to any proceeding under this subsection.

(s) Mergers, consolidations, and other acquisitions authorized

(1) In general

Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(3), 1828(c)] and all other applicable laws, any Federal savings association may acquire or be acquired by any insured depository institution.

(2) Expedited approval of acquisitions

(A) In general

Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under any applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

(B) Extension of period

The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

(i) an applicant has not furnished all of the information required to be submitted; or

(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

(3) "Acquire" defined

For purposes of this subsection, the term ''acquire'' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

(4) Regulations

(A) Required

The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

(B) Effective date

The regulations required under subparagraph (A) shall—

(i) be prescribed in final form before the end of the 90-day period beginning on December 19, 1991; and

(ii) take effect before the end of the 120-day period beginning on December 19, 1991.

(5) Limitation

No provision of this section shall be construed to authorize a national bank or any subsidiary thereof to engage in any activity not otherwise authorized under the National Bank Act [12 U.S.C. 21 et seq.] or any other law governing the powers of a national bank.

(t) Exemption for bank holding companies

This section shall not apply to a bank holding company that is subject to the Bank Holding

[12] So in original. Probably should be ''preponderance''.

Company Act of 1956 [12 U.S.C. 1841 et seq.], or any company controlled by such bank holding company.

(June 13, 1933, ch. 64, § 10, as added Pub. L. 100–86, title IV, § 404(a), Aug. 10, 1987, 101 Stat. 609; amended Pub. L. 101–73, title III, §§ 301, 303(a), title IX, §§ 905(j), 907(k), Aug. 9, 1989, 103 Stat. 318, 343, 462, 475; Pub. L. 102–242, title II, § 211, title IV, §§ 437–440, title V, § 502(a), Dec. 19, 1991, 105 Stat. 2298, 2381, 2392; Pub. L. 102–550, title XVI, §§ 1606(f)(4), 1607(b), Oct. 28, 1992, 106 Stat. 4088, 4089; Pub. L. 104–201, div. A, title X, § 1077, Sept. 23, 1996, 110 Stat. 2664; Pub. L. 104–208, div. A, title II, §§ 2201(b)(2), 2203(a)–(c), 2303(e), (g), 2704(d)(12)(B), Sept. 30, 1996, 110 Stat. 3009–403, 3009–404, 3009–424, 3009–425, 3009–490; Pub. L. 106–102, title IV, § 401(a), (b), title VI, § 604(d), Nov. 12, 1999, 113 Stat. 1434, 1436, 1452; Pub. L. 106–569, title XII, §§ 1201(b)(2), 1202, Dec. 27, 2000, 114 Stat. 3032.)

REFERENCES IN TEXT

Sections 406 and 408 of the National Housing Act, referred to in subsecs. (c)(3)(B)(i)(I), (6)(C)(i), (iv), (e)(1)(A)(iii)(VI), and (q)(1)(F), which were classified to sections 1729 and 1730a of this title, respectively, were repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

The antitrust laws, referred to in subsec. (k), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

The Bank Holding Company Act of 1956, referred to in subsecs. (a)(1)(D)(ii), (e)(1)(B)(iii), (m)(3)(C), and (t), is act May 9, 1956, ch. 240, 70 Stat. 133, as amended, which is classified principally to chapter 17 (§ 1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

The Federal Deposit Insurance Act, referred to in subsec. (m)(3)(E), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

Section 1465 of this title, referred to in subsec. (m)(4)(B)(iii), was repealed by Pub. L. 106–569, title XII, § 1201(a), Dec. 27, 2000, 114 Stat. 3032.

The National Bank Act, referred to in subsec. (s)(5), is act June 3, 1864, ch. 106, 13 Stat. 99, as amended, which is classified principally to chapter 2 (§ 21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

CODIFICATION

The directory language of sections 905(j) and 907(k) of Pub. L. 101–73 amending subsec. (i) of this section resulted in the enactment of two virtually identical pars. (2) and (3) both relating to civil money penalties and a par. (5) identical to former par. (4). See 1989 Amendment notes below.

AMENDMENTS

2000—Subsec. (e)(1)(A)(iii). Pub. L. 106–569, § 1202, in introductory provisions, inserted ", except with the prior written approval of the Director," after "to acquire, by purchase or otherwise, or to retain" and substituted "acquire or retain, and the Director may not authorize acquisition or retention of," for "so acquire or retain".

Subsec. (m)(4)(B)(iii). Pub. L. 106–569, § 1201(b)(2), inserted "as in effect on the day before December 27, 2000," after "section 1465 of this title,".

1999—Subsec. (c)(9). Pub. L. 106–102, § 401(a), added par. (9).

Subsec. (m)(3)(B)(i)(III), (IV). Pub. L. 106–102, § 604(d)(1), redesignated subcl. (IV) as (III) and struck out heading and text of former subcl. (III). Text read as follows: "The savings association shall not be eligible to obtain new advances from any Federal home loan bank."

Subsec. (m)(3)(B)(ii). Pub. L. 106–102, § 604(d)(2), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: "The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association."

Subsec. (*o*)(5)(E). Pub. L. 106–102, § 401(b), substituted "subsection (c)(2) or (c)(9)(A)(ii) of this section" for "subsection (c)(2) of this section, except subparagraph (B)".

1996—Subsec. (a)(1)(D). Pub. L. 104–208, § 2203(b), amended heading and text of subpar. (D) generally. Prior to amendment, text read as follows: "The term 'savings and loan holding company' means any company which directly or indirectly controls a savings association or controls any other company which is a savings and loan holding company."

Subsec. (e)(1)(A)(iii)(VII). Pub. L. 104–208, § 2704(d)(12)(B)(i), which directed insertion of "or" at end, was not executed. See Effective Date of 1996 Amendment note below.

Pub. L. 104–208, § 2203(c)(1), inserted "or" at end.

Subsec. (e)(1)(A)(iv). Pub. L. 104–208, § 2704(d)(12)(B)(ii), which directed insertion of "and" at end, was not executed. See Effective Date of 1996 Amendment note below.

Pub. L. 104–208, § 2203(c)(2), inserted "and" at end.

Subsec. (e)(1)(B). Pub. L. 104–208, § 2704(d)(12)(B)(iii), which directed substitution of "Deposit Insurance Fund" for "Savings Association Insurance Fund or Bank Insurance Fund", was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (e)(1)(B)(iii). Pub. L. 104–208, § 2203(c)(3), added cl. (iii).

Subsec. (e)(2). Pub. L. 104–208, § 2704(d)(12)(B)(iv), which directed substitution of "Deposit Insurance Fund" for "Savings Association Insurance Fund or the Bank Insurance Fund", was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (m)(1). Pub. L. 104–208, § 2203(e)(3), added subpar. (A), redesignated existing provisions as subpar. (B), and redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (B).

Subsec. (m)(3)(E). Pub. L. 104–208, § 2704(d)(12)(B)(v), which directed the amendment of par. (3) by striking subpar. (E) and redesignating subpar. (F) as (E), was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (m)(3)(F). Pub. L. 104–208, § 2704(d)(12)(B)(v), which directed the amendment of par. (3) by redesignating subpar. (F) as (E), was not executed. See Effective Date of 1996 Amendment note below.

Pub. L. 104–201 substituted "associations serving certain" for "association serving transient" in heading, substituted "company if" for "company if—" and cl. (i), struck out cl. (ii) designation before "at least 90", and substituted "members" for "officers" in two places. Prior to amendment, cl. (i) read as follows: "the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984; and".

Subsec. (m)(3)(G), (H). Pub. L. 104–208, § 2704(d)(12)(B)(v), which directed the amendment of par.

(3) by redesignating subpars. (G) and (H) as (F) and (G), respectively, was not executed. See Effective Date of 1996 Amendment note below.

Subsec. (m)(4). Pub. L. 104–208, §2303(g)(1), substituted ''subsection, the following definitions apply:'' for ''subsection—'' in introductory provisions.

Subsec. (m)(4)(C)(ii)(VII). Pub. L. 104–208, §2303(g)(2)(A), added subcl. (VII).

Subsec. (m)(4)(C)(iii)(VI). Pub. L. 104–208, §2303(g)(2)(B), added cl. (VI) and struck out former cl. (VI) which read as follows: ''Loans for personal, family, household, or educational purposes, but the dollar amount treated as qualified thrift investments under this subclause may not exceed the amount which is equal to 10 percent of the savings association's portfolio assets.''

Subsec. (m)(4)(D), (E). Pub. L. 104–208, §2303(g)(3), added subpars. (D) and (E).

Subsec. (s)(2)(A). Pub. L. 104–208, §2201(b)(2), substituted ''under any'' for ''under section 5(d)(3) of the Federal Deposit Insurance Act or any other''.

Subsec. (t). Pub. L. 104–208, §2203(a), added subsec. (t).

1992—Subsec. (m)(1), (3)(D). Pub. L. 102–550, §1606(f)(4), amended Pub. L. 102–242, §437. See 1991 Amendment note below.

Subsecs. (s), (t). Pub. L. 102–550, §1607(b), redesignated subsec. (t) as (s).

1991—Subsec. (e)(1). Pub. L. 102–242, §211(1), inserted after subpar. (B) ''Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.''

Subsec. (e)(2). Pub. L. 102–242, §211(2)(A), inserted after second sentence ''Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.''

Subsec. (e)(2)(C), (D). Pub. L. 102–242, §211(2)(B)–(D), added subpars. (C) and (D).

Subsec. (m)(1)(A). Pub. L. 102–242, §437(b)(1), as added by Pub. L. 102–550, §1606(f)(4)(B), substituted ''65 percent'' for ''70 percent''.

Subsec. (m)(1)(B). Pub. L. 102–242, §437(a), as amended by Pub. L. 102–550, §1606(f)(4)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets, as measured by a daily or weekly average of such qualified thrift investments and such portfolio assets, for the 2-year period beginning on July 1, 1991, and for each 2-year period thereafter.''

Subsec. (m)(3)(D). Pub. L. 102–242, §437(b)(2), as added by Pub. L. 102–550, §1606(f)(4)(B), substituted ''on a monthly average basis in 9 out of the preceding 12 months'' for ''for the preceding 2-year period''.

Subsec. (m)(4)(B)(iii). Pub. L. 102–242, §438, substituted ''20 percent'' for ''10 percent''.

Subsec. (m)(4)(C)(ii). Pub. L. 102–242, §439(1), added subcl. (VI).

Subsec. (m)(4)(C)(iii)(VI). Pub. L. 102–242, §440(a), substituted ''10 percent'' for ''5 percent''.

Subsec. (m)(4)(C)(iii)(VII). Pub. L. 102–242, §439(2), added subcl. (VII).

Subsec. (m)(4)(C)(iv). Pub. L. 102–242, §440(b), substituted ''20 percent'' for ''15 percent''.

Subsec. (t). Pub. L. 102–242, §502(a), added subsec. (t).

1989—Pub. L. 101–73, §301, amended section generally, substituting subsecs. (a) to (r) relating to regulation of holding companies for former subsecs. (a) to (d) relating to thrift industry recovery regulations.

Subsec. (i)(1). Pub. L. 101–73, §907(k)(1), added par. (1) and struck out former par. (1) which related to criminal penalties.

Subsec. (i)(2). Pub. L. 101–73, §907(k)(1), (2), redesignated par. (3) as (2) and struck out former par. (2) which related to penalties for making false entries.

Subsec. (i)(3), (4). Pub. L. 101–73, §907(k)(2), (3), redesignated par. (4), relating to notice after separation from service, as (3) and amended par. (3) generally, substituting provisions relating to and penalties for provisions relating to notice after separation from service. Former par. (3) redesignated (2). See Codification note above.

Subsec. (i)(5). Pub. L. 101–73, §905(j), added par. (5).

Subsec. (m). Pub. L. 101–73, §303(a), amended subsec. (m) generally, revising and restating as pars. (1) to (7) provisions of former pars. (1) to (6).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(12)(B) of Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, set out as a note under section 1821 of this title.

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.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 303(b) of Pub. L. 101–73 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on July 1, 1991.''

Amendment by section 301 of Pub. L. 101–73 relating to civil penalties applicable with respect to violations committed and activities engaged in after Aug. 9, 1989, except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities (1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and (2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 1813 of this title) occurring before Aug. 9, 1989, see section 305(c) of Pub. L. 101–73, set out as a note under section 1461 of this title.

Amendment by section 907(k) of Pub. L. 101–73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of $5,000 and $25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(*l*) of Pub. L. 101–73, set out as a note under section 93 of this title.

SAVINGS PROVISION

Section 302 of title III of Pub. L. 101–73 provided that: ''Notwithstanding the amendment made by this title to section 10 of the Home Owners' Loan Act [12 U.S.C. 1467a] and the repeal of section 416 of the National Housing Act [12 U.S.C. 1730i]—

''(1) any plan approved by the Federal Home Loan Bank Board under such section 10 for any Federal savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Director of the Office of Thrift Supervision regular and complete reports on the association's progress in meeting the association's goals under the plan; and

''(2) any plan approved by the Federal Savings and Loan Insurance Corporation under such section 416 for any State savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Federal Deposit Insurance Corporation regular and complete reports on the association's progress in meeting the savings association's goals under the plan.''

RULE OF CONSTRUCTION FOR CERTAIN APPLICATIONS

Pub. L. 106–102, title IV, § 401(c), Nov. 12, 1999, 113 Stat. 1436, provided that:

''(1) IN GENERAL.—In the case of a company that—

''(A) submits an application with the Director of the Office of Thrift Supervision before the date of the enactment of this Act [Nov. 12, 1999] to convert a State-chartered trust company controlled by such company on May 4, 1999, to a savings association; and

''(B) controlled a subsidiary on May 4, 1999, that had submitted an application to the Director on September 2, 1998;

the company (including any subsidiary controlled by such company as of such date of enactment [Nov. 12, 1999]) shall be treated as having filed such conversion application with the Director before May 4, 1999, for purposes of section 10(c)(9)(C) of the Home Owners' Loan Act [12 U.S.C. 1467a(c)(9)(C)] (as added by subsection (a)).

''(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'company', 'control', 'savings association', and 'subsidiary' have the meanings given those terms in section 10 of the Home Owners' Loan Act.''

ASSOCIATIONS THAT HAVE PREVIOUSLY FAILED TO REMAIN QUALIFIED THRIFT LENDERS

Section 303(c) of Pub. L. 101–73 provided that: ''If, as of June 30, 1991, any savings association is subject to any provision of section 10(m)(3) of the Home Owners' Loan Act [12 U.S.C. 1467a(m)(3)] as in effect on that date, the amendment to this subsection made by section 303 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101–73], shall not be construed as reducing the period specified in section 10(m)(3) of such Act.''

CAPITAL RECOVERY; SUBMISSION OF PROPOSED REGULATIONS TO CONGRESS; EFFECTIVE DATE; STUDY, REPORT, AND CONGRESSIONAL REVIEW

Section 404(c)–(e) of Pub. L. 100–86 required the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to each submit a report to Congress containing the proposed regulations required to be prescribed under 12 U.S.C. 1467a and 1730i of this title not later than the end of the 90-day period beginning on Aug. 10, 1987; required the regulations to be implemented not later than the end of the 150-day period beginning on Aug. 10, 1987; and required, not later than Jan. 31, 1989, a detailed evaluation of, and report the effectiveness of, the regulations in achieving an increased level of capitalization for thrift institutions.

SUNSET AND SAVINGS PROVISION

Section ceases to be effective on date that notice of completion of all net new borrowing by Financing Corporation is published in Federal Register [Mar. 30, 1992, 57 F.R. 10763], with such termination not to be construed to affect or limit any authority of Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law, see section 416 of Pub. L. 100–86, set out as a note under section 1441 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1462, 1464, 1467, 1468, 1813, 1817, 1820a, 1823, 1828b, 1841, 1843, 3204 of this title; title 7 section 6f; title 15 sections 18a, 77c, 78*o*–5, 78q.

§ 1468. Transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders

(a) Affiliate transactions

(1) In general

Sections 23A and 23B of the Federal Reserve Act [12 U.S.C. 371c and 371c–1] shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act [12 U.S.C. 221 et seq.]), except that—

(A) no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 1467a(c)(2)(F)(i) of this title; and

(B) no savings association may enter into any transaction described in section 23A(b)(7)(B) of the Federal Reserve Act with any affiliate other than with respect to shares of a subsidiary.

(2) Sister bank exemption made available to savings associations

(A) Savings associations controlled by bank holding companies

Every savings association more than 80 percent of the voting stock of which is owned by a company described in section 1467a(c)(8) of this title shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act, if every savings association and bank controlled by such company complies with all applicable capital requirements on a fully phased-in basis and without reliance on goodwill.

(B) Savings associations generally

Effective on and after January 1, 1995, every savings association shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

(3) Affiliates described

Any company that would be an affiliate (as defined in sections 23A and 23B of the Federal Reserve Act) of any savings association if such savings association were a member bank (as such term is defined in such Act) shall be deemed to be an affiliate of such savings association for purposes of paragraph (1).

(4) Additional restrictions authorized

The Director may impose such additional restrictions on any transaction between any savings association and any affiliate of such savings association as the Director determines to be necessary to protect the safety and soundness of the savings association.

(b) Extensions of credit to executive officers, directors, and principal shareholders

(1) In general

Subsections (g) and (h) of section 22 of the Federal Reserve Act [12 U.S.C. 375a, 375b] shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act).

(2) Additional restrictions authorized

The Director may impose such additional restrictions on loans or extensions of credit to any director or executive officer of any savings association, or any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a savings association, as the Director determines to be necessary to protect

the safety and soundness of the savings association.

(c) Administrative enforcement

The Director may take enforcement action with respect to violations of this section pursuant to section 8 or 18(j) of the Federal Deposit Insurance Act [12 U.S.C. 1818 or 1828(j)], as appropriate.

(June 13, 1933, ch. 64, § 11, formerly § 9, 48 Stat. 135; Apr. 27, 1934, ch. 168, § 15, 48 Stat. 647; renumbered § 11, Pub. L. 100–86, title IV, § 402(a), Aug. 10, 1987, 101 Stat. 605; Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 342; Pub. L. 102–242, title III, § 306(i), Dec. 19, 1991, 105 Stat. 2359; Pub. L. 103–325, title III, § 316, Sept. 23, 1994, 108 Stat. 2223.)

REFERENCES IN TEXT

The Federal Reserve Act, referred to in subsecs. (a)(1), (3) and (b)(1), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, which is classified principally to chapter 3 (§ 221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

AMENDMENTS

1994—Subsec. (a)(2)(C). Pub. L. 103–325, § 316(b), struck out heading and text of subpar. (C) which read as follows:

''(C) TRANSITION RULE FOR WELL CAPITALIZED SAVINGS ASSOCIATIONS.—

''(i) IN GENERAL.—A savings association that is well capitalized (as defined in section 1831*o* of this title), as determined without including goodwill in calculating core capital, shall be treated as a bank for purposes of section 371c(d)(1) of this title and section 371c–1 of this title.

''(ii) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—Any savings association that engages under clause (i) in a transaction that would not otherwise be permissible under this subsection, and any affiliated insured bank that is commonly controlled (as defined in section 1815(e)(9) of this title), shall be subject to subsection (e) of section 1815 of this title as if paragraph (6) of that subsection did not apply.''

Pub. L. 103–325, § 316(a), added subpar. (C).

1991—Subsec. (b)(1). Pub. L. 102–242 substituted ''Subsections (g) and (h) of section 22'' for ''Section 22(h)''.

1989—Pub. L. 101–73 amended section generally, substituting subsecs. (a) to (c) relating to affiliate transactions, extensions of credit, and administrative enforcement, for former undesignated paragraph relating to separability of provisions.

1934—Act Apr. 27, 1934, reenacted section without change.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 316(b) of Pub. L. 103–325 provided that amendment made by that section is effective Jan. 1, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–242 effective upon the earlier of the date on which final regulations under section 306(m)(1) of Pub. L. 102–242 become effective or 150 days after Dec. 19, 1991, see section 306(*l*) of Pub. L. 102–242, set out as a note under section 375b of this title.

TRANSITIONAL RULE FOR CERTAIN TRANSACTIONS WITH AFFILIATES

Section 304 of Pub. L. 101–73 provided that:

''(a) CONSISTENCY OF CERTAIN REGULATIONS WITH SECTION 23A OF THE FEDERAL RESERVE ACT [12 U.S.C. 371c].—Not later than 6 months after the date of enactment of this Act [Aug. 9, 1989], the Director of the Office of Thrift Supervision shall revise the Director's conflicts regulations so as not to prohibit a thrift institution from purchasing mortgages from a mortgage-banking affiliate to the same extent as a member bank may do so under section 250.250 of title 12, Code of Federal Regulations.

''(b) TRANSITIONAL PERIOD.—Notwithstanding section 11(a) of the Home Owners' Loan Act [12 U.S.C. 1468(a)] (as added by section 301 of this Act), a thrift institution that, before May 1, 1989, had received approval from the Federal Savings and Loan Insurance Corporation pursuant to section 408(d)(6) of the National Housing Act [former 12 U.S.C. 1730a(d)(6)] as then in effect to purchase mortgages from a mortgage-banking affiliate may, during the 6-month period following the date on which final regulations are prescribed pursuant to subsection (a), continue to engage in transactions for which it had received such approval. Any savings association that engages in such transactions pursuant to this subsection shall comply with the standards that were applicable under section 408(d)(6) as in effect on May 1, 1989.

''(c) AUTHORITY TO EXTEND REGULATORY APPROVALS THAT WOULD OTHERWISE LAPSE DURING THE TRANSITIONAL PERIOD.—The Director of the Office of Thrift Supervision may extend until the expiration of the 6-month period described in subsection (b) any approval granted by the Federal Savings and Loan Insurance Corporation that expires or would expire before the expiration of that 6-month period. In determining whether to grant such exemptions, the Director shall apply the standards that were applicable under section 408(d)(6) of the National Housing Act [former 12 U.S.C. 1730a(d)(6)] as in effect on May 1, 1989.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1467a, 1831e of this title.

§ 1468a. Advertising

No savings association shall carry on any sale, plan, or practices, or any advertising, in violation of regulations promulgated by the Director.

(June 13, 1933, ch. 64, § 12, as added Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 343.)

§ 1468b. Powers of examiners

For the purposes of this chapter, examiners appointed by the Director shall—

(1) be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the Federal Reserve Act [12 U.S.C. 221 et seq.] and title LXII of the Revised Statutes; and

(2) have, in the exercise of functions under this chapter, the same powers and privileges as are vested in such examiners by law.

(June 13, 1933, ch. 64, § 13, as added Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 343.)

REFERENCES IN TEXT

The Federal Reserve Act, referred to in par. (1), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, which is classified principally to chapter 3 (§ 221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

Title LXII of the Revised Statutes, referred to in par. (1), consists of R.S. §§ 5133 to 5244, which are classified to sections 21, 22 to 24a, 25a, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete

classification of R.S. §§5133 to 5244 to the Code, see Tables.

§ 1468c. Separability

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(June 13, 1933, ch. 64, §14, as added Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 343.)

§ 1469. Authority to invest in State housing corporations

The Congress finds that Federal savings and loan associations and national banks should have the authority to assist in financing the organization and operation of any State housing corporation established under the laws of the State in which the corporation will carry on its operation. It is the purpose of this section to provide a means whereby private financial institutions can assist in providing housing, particularly for families of low- or moderate-income, by purchasing stock of and investing in loans to any such State housing corporation situated in the particular State in which the Federal savings and loan association or national bank involved is located.

(Pub. L. 93–100, §5(a), Aug. 16, 1973, 87 Stat. 343.)

REFERENCES IN TEXT

This section, referred to in text, means section 5 of Pub. L. 93–100, which enacted this section and section 1470 of this title and amended sections 24 and 1464 of this title.

CODIFICATION

Section was not enacted as part of the Home Owners' Loan Act of 1933 which comprises this chapter.

EFFECTIVE DATE

Section 8 of Pub. L. 93–100 provided that: ''The provisions of this Act [enacting this section and sections 1470 and 1832 of this title, amending sections 24, 461 note, 1464, 1725, 1727 and 1828 of this title, and enacting provisions set out as notes under section 548 of this title] shall take effect on the thirtieth day after the date of its enactment [Aug. 16, 1973], except that the amendments made by sections 1 and 5 [enacting this section and section 1470 of this title and amending sections 24, 461 note, and 1464 of this title] shall take effect on the date of enactment of this Act [Aug. 16, 1973].''

§ 1470. Federal supervision of insured institutions, State member and nonmember banks; access to information; definitions

(a)(1) The Federal Savings and Loan Insurance Corporation with respect to insured institutions, the Board of Governors of the Federal Reserve System with respect to State member insured banks, and the Federal Deposit Insurance Corporation with respect to State nonmember insured banks shall by appropriate rule, regulation, order, or otherwise regulate investment in State housing corporations.

(2) A State housing corporation in which financial institutions invest under the authority of this section shall make available to the appropriate Federal supervisory agency referred to in paragraph (1) such information as may be necessary to insure that investments are properly made in accordance with this section.

(b) For the purposes of this section and any Act amended by this section—

(1) The term ''insured institution'' has the same meaning as in section 401(a) of the National Housing Act [12 U.S.C. 1724(a)].[1]

(2) The terms ''State member insured banks'' and ''State nonmember insured banks'' have the same meaning as when used in the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(3) The term ''State housing corporation'' means a corporation established by a State for the limited purpose of providing housing and incidental services, particularly for families of low or moderate income.

(4) The term ''State'' means any State, the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

(Pub. L. 93–100, §5(d), (e), Aug. 16, 1973, 87 Stat. 344.)

REFERENCES IN TEXT

This section, referred to in subsec. (a)(2), refers to section 5 of Pub. L. 93–100, which enacted this section and section 1469 of this title and amended sections 24 and 1464 of this title.

This section and any Act amended by this section, referred to in subsec. (b), are this section and sections 24 par. Seventh, 1464(c), and 1469 of this title.

Section 401(a) of the National Housing Act, referred to in subsec. (b)(1), which was classified to section 1724 of this title, was repealed by Pub. L. 101–73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

The Federal Deposit Insurance Act, referred to in subsec. (b)(2), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Home Owners' Loan Act of 1933, which comprises this chapter.

Subsecs. (d) and (e) of section 5 of Pub. L. 93–100 have been designated subsecs. (a) and (b) for purposes of codification.

EFFECTIVE DATE

Section effective Aug. 16, 1973, see section 8 of Pub. L. 93–100, set out as a note under section 1469 of this title.

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation 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.

CHAPTER 13—NATIONAL HOUSING

Sec.
1701. Short title.
1701a. Short title of amendment of 1938.
1701b. Short title of amendment of 1942.
1701c. Secretary of Housing and Urban Development.
(a) Employment of personnel; delegation of functions.
(b) Omitted.
(c) Additional powers and duties of Secretary and Federal Home Loan Bank Board.

[1] See References in Text note below.