

Subsec. (f)(2). Pub. L. 111-83, § 563(b), designated existing provisions as subparagraph (A), inserted heading, redesignated former subparagraphs (A) and (B) as clauses (i) and (ii), respectively, of subparagraph (A), realigned margins, and added subparagraph (B).

1999—Subsecs. (f), (g). Pub. L. 106-102 added subsec. (f) and redesignated former subsec. (f) as (g).

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-203, title VI, § 607(c), July 21, 2010, 124 Stat. 1608, provided that: “The amendments made by this section [amending this section and section 1842 of this title] shall take effect on the transfer date.”

[For definition of “transfer date” as used in section 607(c) of Pub. L. 111-203, set out above, see section 5301 of this title.]

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-83, title V, § 563(c), Oct. 28, 2009, 123 Stat. 2184, provided that: “The amendments made by this section [amending this section] shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act [Oct. 28, 2009] and ending on December 31, 2010.”

Pub. L. 111-32, title V, § 504(b), June 24, 2009, 123 Stat. 1880, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act [June 24, 2009] and ending on December 31, 2010.”

### **§ 1831v. Authority of State insurance regulator and Securities and Exchange Commission**

#### (a) In general

Notwithstanding any other provision of law, the provisions of—

(1) section 1844(c) of this title that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on holding companies and their functionally regulated subsidiaries or that require deference to other regulators;

(2) section 1844(g) of this title that limit the authority of the Board to require a functionally regulated subsidiary of a holding company to provide capital or other funds or assets to a depository institution subsidiary of the holding company and to take certain actions including requiring divestiture of the depository institution; and

(3) section 1848a<sup>1</sup> of this title that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to holding companies and their functionally regulated subsidiaries;

shall also limit whatever authority that a Federal banking agency might otherwise have under any statute or regulation to require reports, make examinations, impose capital requirements, or take any other direct or indirect action with respect to any functionally regulated affiliate of a depository institution, subject to the same standards and requirements as are applicable to the Board under those provisions.

#### (b) Certain exemption authorized

No provision of this section shall be construed as preventing the Corporation, if the Corporation finds it necessary to determine the condition of a depository institution for insurance

purposes, from examining an affiliate of any depository institution, pursuant to section 1820(b)(4) of this title, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

#### (c) Definitions

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

##### (1) Functionally regulated subsidiary

The term “functionally regulated subsidiary” has the meaning given the term in section 1844(c)(5) of this title.

##### (2) Functionally regulated affiliate

The term “functionally regulated affiliate” means, with respect to any depository institution, any affiliate of such depository institution that is—

(A) not a depository institution holding company; and

(B) a company described in any clause of section 1844(c)(5)(B) of this title.

(Sept. 21, 1950, ch. 967, § 2[45], as added Pub. L. 106-102, title I, § 112(b), Nov. 12, 1999, 113 Stat. 1367.)

#### REFERENCES IN TEXT

Section 1848a of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 111-203, title VI, § 604(c)(2), July 21, 2010, 124 Stat. 1601.

#### EFFECTIVE DATE

Section effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106-102, set out as an Effective Date of 1999 Amendment note under section 24 of this title.

### **§ 1831w. Safety and soundness firewalls applicable to financial subsidiaries of banks**

#### (a) In general

An insured State bank may control or hold an interest in a subsidiary that engages in activities as principal that would only be permissible for a national bank to conduct through a financial subsidiary if—

(1) the State bank and each insured depository institution affiliate of the State bank are well capitalized (after the capital deduction required by paragraph (2));

(2) the State bank complies with the capital deduction and financial statement disclosure requirements in section 24(a)(c) of this title;

(3) the State bank complies with the financial and operational safeguards required by section 24(a)(d) of this title; and

(4) the State bank complies with the amendments to sections 23A and 23B of the Federal Reserve Act [12 U.S.C. 371c and 371c-1] made by section 121(b) of the Gramm-Leach-Bliley Act.

#### (b) Preservation of existing subsidiaries

Notwithstanding subsection (a) of this section, an insured State bank may retain control of a subsidiary, or retain an interest in a subsidiary, that the State bank lawfully controlled or acquired before November 12, 1999, and conduct through such subsidiary any activities lawfully conducted in such subsidiary as of such date.

#### (c) Definitions

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

<sup>1</sup> See References in Text note below.

**(1) Subsidiary**

The term “subsidiary” means any company that is a subsidiary (as defined in section 1813(w)(4) of this title) of 1 or more insured banks.

**(2) Financial subsidiary**

The term “financial subsidiary” has the meaning given the term in section 24a(g) of this title.

**(d) Preservation of authority****(1) This chapter**

No provision of this section shall be construed as superseding the authority of the Federal Deposit Insurance Corporation to review subsidiary activities under section 1831a of this title.

**(2) Federal Reserve Act**

No provision of this section shall be construed as affecting the applicability of the 20th undesignated paragraph of section 9 of the Federal Reserve Act [12 U.S.C. 335].

(Sept. 21, 1950, ch. 967, §2[46], as added Pub. L. 106–102, title I, §121(d)(1), Nov. 12, 1999, 113 Stat. 1380.)

## REFERENCES IN TEXT

Section 121(b) of the Gramm-Leach-Bliley Act, referred to in subsec. (a)(4), is section 121(b) of Pub. L. 106–102, title I, Nov. 12, 1999, 113 Stat. 1378, which amended section 371c of this title.

## EFFECTIVE DATE

Section effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106–102, set out as an Effective Date of 1999 Amendment note under section 24 of this title.

**§ 1831x. Insurance customer protections****(a) Regulations required****(1) In general**

The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on November 12, 1999, customer protection regulations (which the agencies jointly determine to be appropriate) that—

(A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any depository institution or any person that is engaged in such activities at an office of the institution or on behalf of the institution; and

(B) are consistent with the requirements of this chapter and provide such additional protections for customers to whom such sales, solicitations, advertising, or offers are directed.

**(2) Applicability to subsidiaries**

The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiary of a depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

**(3) Consultation and joint regulations**

The Federal banking agencies shall consult with each other and prescribe joint regula-

tions pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

**(b) Sales practices**

The regulations prescribed pursuant to subsection (a) of this section shall include antitying and anticoercion rules applicable to the sale of insurance products that prohibit a depository institution from engaging in any practice that would lead a customer to believe an extension of credit, in violation of section 1972 of this title, is conditional upon—

(1) the purchase of an insurance product from the institution or any of its affiliates; or

(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

**(c) Disclosures and advertising**

The regulations prescribed pursuant to subsection (a) of this section shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

**(1) Disclosures****(A) In general**

Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iii), at the time of application for an extension of credit:

**(i) Uninsured status**

As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the depository institution.

**(ii) Investment risk**

In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

**(iii) Coercion**

The approval of an extension of credit may not be conditioned on—

(I) the purchase of an insurance product from the institution in which the application for credit is pending or of any affiliate of the institution; or

(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

**(B) Making disclosure readily understandable**

Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

(i) “NOT FDIC—INSURED”.

(ii) “NOT GUARANTEED BY THE BANK”.

(iii) “MAY GO DOWN IN VALUE”.

(iv) “NOT INSURED BY ANY GOVERNMENT AGENCY”.