

ute (other than this section), and not by implication or interpretation, to control, such as by section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.] or the Bank Service Company Act [12 U.S.C. 1861 et seq.].

(4) Eligible debt

The term “eligible debt” means unsecured long-term debt that—

(A) is not supported by any form of credit enhancement, including a guarantee or standby letter of credit; and

(B) is not held in whole or in any significant part by any affiliate, officer, director, principal shareholder, or employee of the bank or any other person acting on behalf of or with funds from the bank or an affiliate of the bank.

(5) Well capitalized

The term “well capitalized” has the meaning given the term in section 1831o of this title.

(6) Well managed

The term “well managed” means—

(A) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

(i) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

(ii) at least a rating of 2 for management, if such rating is given; or

(B) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

(R.S. §5136A, as added Pub. L. 106-102, title I, §121(a)(2), Nov. 12, 1999, 113 Stat. 1373; amended Pub. L. 111-203, title IX, §939(d), July 21, 2010, 124 Stat. 1886.)

AMENDMENT OF SECTION

Pub. L. 111-203, title IX, §939(d), (g), July 21, 2010, 124 Stat. 1886, 1887, provided that, effective 2 years after July 21, 2010, this section is amended:

(1) in subsection (a)(2)(E), by substituting “standards of credit-worthiness established by the Comptroller of the Currency” for “any applicable rating”;

(2) in the heading for subsection (a)(3), by substituting “Requirement” for “Rating or Comparable Requirement”;

(3) by amending subsection (a)(3)(A) to read as follows:

“(A) In general

“A national bank meets the requirements of this paragraph if the bank is one of the 100 largest insured banks and has not fewer than 1 issue of outstanding debt that meets standards of credit-worthiness or other criteria as the Secretary of the Treasury and the Board of Gov-

ernors of the Federal Reserve System may jointly establish.”;

(4) in the heading for subsection (f), by substituting “meet standards of credit-worthiness” for “maintain public rating or”;

(5) in subsection (f)(1), by substituting “standards of credit-worthiness established by the Comptroller of the Currency” for “any applicable rating”.

REFERENCES IN TEXT

The Gramm-Leach-Bliley Act, referred to in subsecs. (a)(2)(B)(iii), (b)(2)(A), (3), is Pub. L. 106-102, Nov. 12, 1999, 113 Stat. 1338. Section 122 of the Act is set out as a note under section 1843 of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of this title and Tables.

Section 25 of the Federal Reserve Act, referred to in subsec. (g)(3)(B), is classified to subchapter I (§601 et seq.) of chapter 6 of this title. Section 25A of the Federal Reserve Act is classified to subchapter II (§611 et seq.) of chapter 6 of this title.

The Bank Service Company Act, referred to in subsec. (g)(3)(B), is Pub. L. 87-856, Oct. 23, 1962, 76 Stat. 1132, as amended, which is classified generally to chapter 18 (§1861 et seq.) of this title. For complete classification of this Act to the Code, see section 1861 of this title and Tables.

PRIOR PROVISIONS

A prior section 5136A of the Revised Statutes was renumbered section 5136B by Pub. L. 106-102 and is classified to section 25a of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-203, title IX, §939(g), July 21, 2010, 124 Stat. 1887, provided that: “The amendments made by this section [amending this section, sections 1817, 1831e, and 4519 of this title, sections 78c and 80a-6 of Title 15, Commerce and Trade, and section 286hh of Title 22, Foreign Relations and Intercourse] shall take effect 2 years after the date of enactment of this Act [July 21, 2010].”

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.

§ 25. Omitted

CODIFICATION

Section, act July 1, 1922, ch. 257, §2, 42 Stat. 767, repealed all acts extending the period of succession of national banking associations for 20 years, and made paragraph Second of section 24 applicable in that respect.

§ 25a. Participation by national banks in lotteries and related activities

(a) Prohibited activities

A national bank may not—

(1) deal in lottery tickets;

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

(3) announce, advertise, or publicize the existence of any lottery;¹

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

(b) Use of banking premises prohibited

A national bank may not permit—

¹ So in original. The word “or” probably should appear.

(1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a) of this section, or

(2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section.

(c) Definitions

As used in this section—

(1) The term “deal in” includes making, taking, buying, selling, redeeming, or collecting.

(2) The term “lottery” includes any arrangement whereby three or more persons (the “participants”) advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the “winners”) will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection;

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

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) 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.

(d) Lawful banking services connected with operation of lotteries

Nothing contained in this section prohibits a national bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Comptroller of the Currency shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(R.S. § 5136B, formerly § 5136A, as added Pub. L. 90-203, § 1(a), Dec. 15, 1967, 81 Stat. 608; renumbered R.S. § 5136B, Pub. L. 106-102, title I, § 121(a)(1), Nov. 12, 1999, 113 Stat. 1373.)

EFFECTIVE DATE

Section 6 of Pub. L. 90-203 provided that: “The amendments made by this Act [adding this section, sections 339, 1730c, and 1829a of this title, and section 1306 of Title 18, Crimes and Criminal Procedure] shall take effect on April 1, 1968.”

§ 25b. State law preemption standards for national banks and subsidiaries clarified

(a) Definitions

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

(1) National bank

The term “national bank” includes—

(A) any bank organized under the laws of the United States; and

(B) any Federal branch established in accordance with the International Banking Act of 1978 [12 U.S.C. 3101 et seq.].

(2) State consumer financial laws

The term “State consumer financial law” means a State law that does not directly or indirectly discriminate against national banks and that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction (as may be authorized for national banks to engage in), or any account related thereto, with respect to a consumer.

(3) Other definitions

The terms “affiliate”, “subsidiary”, “includes”, and “including” have the same meanings as in section 1813 of this title.

(b) Preemption standard

(1) In general

State consumer financial laws are preempted, only if—

(A) application of a State consumer financial law would have a discriminatory effect on national banks, in comparison with the effect of the law on a bank chartered by that State;

(B) in accordance with the legal standard for preemption in the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N. A. v. Nelson*, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996), the State consumer financial law prevents or significantly interferes with the exercise by the national bank of its powers; and any preemption determination under this subparagraph may be made by a court, or by regulation or order of the Comptroller of the Currency on a case-by-case basis, in accordance with applicable law; or

(C) the State consumer financial law is preempted by a provision of Federal law other than title 62 of the Revised Statutes.

(2) Savings clause

Title 62 of the Revised Statutes and section 371 of this title do not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

(3) Case-by-case basis

(A) Definition

As used in this section the term “case-by-case basis” refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

(B) Consultation

When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptrol-