

controls, directly or indirectly, 45 per centum or more of its voting shares, and no more than 20 per centum of the number of directors as established from time to time to constitute the whole board of directors and 20 per centum of the executive officers of such affiliate are persons affiliated with any such foreign bank, for provision that it meant any affiliate the majority of whose voting shares was owned by a company or group of companies organized under the laws of the United States or any State thereof, if it had been under continuous domestic majority-controlling ownership since July 26, 1978, and if a foreign bank or group of foreign banks did not own or control, directly or indirectly, 25 per centum or more of its voting shares, and defined “persons affiliated with any such foreign bank”.

Pub. L. 97-320, §705(b), substituted “since July 26, 1978, has engaged” for “engages” before “in the business of underwriting”, and inserted “, notwithstanding that such affiliate acquired after July 26, 1978, an interest in, or any or all of the assets of, a going concern, or commences to engage in any new activity or activities” after “and other securities in the United States”.

EFFECTIVE DATE OF 1999 AMENDMENT

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

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1818 of this title; title 15 section 78q.

§ 3106a. Compliance with State and Federal laws

(1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;

(B) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

(C) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

(2) No application for a branch or agency shall be approved by the Comptroller or by a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;

(B) prohibit discrimination against individuals or other persons on the basis of the race,

color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

(C) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.

(Pub. L. 95-369, §9(b), as added Pub. L. 95-630, title III, §311, Nov. 10, 1978, 92 Stat. 3678; amended Pub. L. 103-328, title I, §107(c), Sept. 29, 1994, 108 Stat. 2360.)

AMENDMENTS

1994—Par. (1). Pub. L. 103-328, §107(c)(1), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

Par. (2). Pub. L. 103-328, §107(c)(2), added subpar. (A) and redesignated former subpars. (A) and (B) as (B) and (C), respectively.

EFFECTIVE DATE

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

§ 3107. Representative offices

(a) Prior approval to establish representative offices

(1) In general

No foreign bank may establish a representative office without the prior approval of the Board.

(2) Standards for approval

In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards contained in section 3105(d)(2) of this title and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this chapter.

(b) Termination of representative offices

The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the standards, procedures, and requirements applicable under section 3105(e) of this title with respect to branches and agencies.

(c) Examinations

The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank. The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board deems it necessary to determine and enforce compliance with this chapter, the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], or other applicable Federal banking law.

(d) Compliance with State law

This chapter does not authorize the establishment of a representative office in any State in contravention of State law.

(Pub. L. 95-369, §10, Sept. 17, 1978, 92 Stat. 624; Pub. L. 102-242, title II, §204, Dec. 19, 1991, 105 Stat. 2292; Pub. L. 102-550, title XVI, §1604(a)(4),

Oct. 28, 1992, 106 Stat. 4082; Pub. L. 106-102, title I, § 142(b), Nov. 12, 1999, 113 Stat. 1384.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a)(2), (c), and (d), see References in Text note set out under section 3101 of this title.

The Bank Holding Company Act of 1956, referred to in subsec. (c), 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.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106-102 inserted at end “The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board deems it necessary to determine and enforce compliance with this chapter, the Bank Holding Company Act of 1956, or other applicable Federal banking law.”

1992—Subsec. (b). Pub. L. 102-550 substituted “section 3105(e) of this title” for “paragraphs (1), (2), and (3) of section 3105(d) of this title”.

1991—Pub. L. 102-242 amended section generally. Prior to amendment, section read as follows:

“(a) Any foreign bank that maintains an office other than a branch or agency in any State shall register with the Secretary of the Treasury in accordance with rules prescribed by him, within one hundred and eighty days after September 17, 1978, or the date on which the office is established, whichever is later.

“(b) This chapter does not authorize the establishment of any such office in any State in contravention of State law.”

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-102 effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106-102, set out as a note under section 24 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.

MORATORIUM ON EXAMINATION FEES UNDER THIS CHAPTER

Pub. L. 103-328, title I, §115(b), Sept. 29, 1994, 108 Stat. 2368, provided that: “The provision of section 10(c) of the International Banking Act of 1978 [12 U.S.C. 3107(c)] relating to the cost of examinations under such section shall not apply with respect to any examination under such section which begins before or during the 3-year period beginning on July 25, 1994.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3105 of this title.

§ 3108. Regulation and enforcement

(a) Rules, regulations and orders

The Comptroller, the Board, and the Federal Deposit Insurance Corporation, are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in order to perform their respective duties and functions under this chapter and to administer and carry out the provisions and purposes of this chapter and prevent evasions thereof.

(b) Enforcement

(1) In general

In addition to any powers, remedies, or sanctions otherwise provided by law, compliance

with the requirements imposed under this chapter or any amendment made by this chapter may be enforced under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] by any appropriate Federal banking agency as defined in that Act [12 U.S.C. 1811 et seq.].

(2) Authority to administer oaths; subpoena power

In the course of, or in connection with, an application, examination, investigation, or other proceeding under this chapter, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this chapter) may—

(A) administer oaths and affirmations and take or cause to be taken depositions; and

(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

(3) Administrative aspects of subpoenas

(A) Attendance and production at designated site

The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1813(a)(3)]) or other place subject to the jurisdiction of the United States.

(B) Service of subpoena

Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

(C) Fees and travel expenses

Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(4) Contumacy or refusal

(A) In general

In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

(i) the United States District Court for the District of Columbia, or

(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

(B) Court order

Any court referred to in subparagraph (A) may issue an order requiring compliance