

“(c) DEFINITIONS.—As used in this section:

“(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term ‘appropriate Federal banking agency’ has the meaning given such term in section 903(1) of the International Lending Supervision Act of 1983 [12 U.S.C. 3902(1)].

“(2) BANKING INSTITUTION.—The term ‘banking institution’ has the meaning given such term in section 903(2) of the International Lending Supervision Act of 1983.

“(3) DEBT-FOR-DEVELOPMENT SWAP.—The term ‘debt-for-development swap’ has the meaning given such term in section 1608(b)(2) of the International Financial Institutions Act [22 U.S.C. 262p-4c(b)(2)].

“(4) HIGHLY INDEBTED COUNTRY.—The term ‘highly indebted country’ means any country designated as a ‘Highly Indebted Country’ in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section [Dec. 19, 1989].”

§ 3902. Definitions

For purposes of this chapter—

(1) the term “appropriate Federal banking agency” has the same meaning given such term in section 1813(q) of this title, except that for purposes of this chapter such term means the Board of Governors of the Federal Reserve System for—

(A) bank holding companies and any nonbank subsidiary thereof;

(B) Edge Act corporations organized under section 25(a)¹ of the Federal Reserve Act [12 U.S.C. 611 et seq.]; and

(C) Agreement Corporations operating under section 25 of the Federal Reserve Act [12 U.S.C. 601 et seq.]; and

(2) the term “banking institution” means—

(A)(i) an insured bank as defined in section 1813(h) of this title or any subsidiary of an insured bank;

(ii) an Edge Act corporation organized under section 25(a)¹ of the Federal Reserve Act [12 U.S.C. 611 et seq.]; and

(iii) an Agreement Corporation operating under section 25 of the Federal Reserve Act [12 U.S.C. 601 et seq.]; and

(B) to the extent determined by the appropriate Federal banking agency, any agency or branch of a foreign bank, and any commercial lending company owned or controlled by one or more foreign banks or companies that control a foreign bank as those terms are defined in the International Banking Act of 1978 [12 U.S.C. 3101 et seq.]. The term “banking institution” shall not include a foreign bank.

(Pub. L. 98–181, title IX, § 903, Nov. 30, 1983, 97 Stat. 1278.)

REFERENCES IN TEXT

Section 25(a) of the Federal Reserve Act, referred to in pars. (1) and (2)(A), which is classified to subchapter II (§ 611 et seq.) of chapter 6 of this title, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281. Section 25 of the Federal Reserve Act is classified to subchapter I (§ 601 et seq.) of chapter 6 of this title.

The International Banking Act of 1978, referred to in par. (2)(B), is Pub. L. 95–369, Sept. 17, 1978, 92 Stat. 607, which enacted sections 347d, 611a, and 3101 to 3111 of

this title, amended sections 72, 378, 614, 615, 618, 619, 1813, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1829b, 1831b, and 1841 of this title, and enacted provisions set out as notes under sections 36, 247, 601, 611a, and 3101 of this title. For definitions, see section 3101 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1464, 3910 of this title.

§ 3903. Strengthened supervision of international lending

(a) Each appropriate Federal banking agency shall evaluate banking institution foreign country exposure and transfer risk for use in banking institution examination and supervision.

(b) Each such agency shall establish examination and supervisory procedures to assure that factors such as foreign country exposure and transfer risk are taken into account in evaluating the adequacy of the capital of banking institutions.

(Pub. L. 98–181, title IX, § 904, Nov. 30, 1983, 97 Stat. 1279.)

§ 3904. Reserves

(a) Establishment and maintenance of special reserves

(1) Each appropriate Federal banking agency shall require a banking institution to establish and maintain a special reserve whenever, in the judgment of such appropriate Federal banking agency—

(A) the quality of such banking institution’s assets has been impaired by a protracted inability of public or private borrowers in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as—

(i) a failure by such public or private borrowers to make full interest payments on external indebtedness;

(ii) a failure to comply with the terms of any restructured indebtedness; or

(iii) a failure by the foreign country to comply with any International Monetary Fund or other suitable adjustment program; or

(B) no definite prospects exist for the orderly restoration of debt service.

(2) Such reserves shall be charged against current income and shall not be considered as part of capital and surplus or allowances for possible loan losses for regulatory, supervisory, or disclosure purposes.

(b) Accommodation of potential losses on foreign loans by United States banks

The appropriate Federal banking agencies shall analyze the results of foreign loan rescheduling negotiations, assess the loan loss risk reflected in rescheduling agreements, and, using the powers set forth in section 3907 of this title (regarding capital adequacy), ensure that the capital and reserve positions of United States banks are adequate to accommodate potential losses on their foreign loans.

¹ See References in Text note below.