

solidation transaction approved by the Board under section 1842 of this title, the Board and any State banking supervisory agency having jurisdiction within the State involved, may appear as a party of its own motion and as of right, and be represented by its counsel.

**(d) Treatment of merger transactions consummated prior or subsequent to May 9, 1956, and not in litigation prior to July 1, 1966**

Any acquisition, merger, or consolidation of the kind described in section 1842(a) of this title which was consummated at any time prior or subsequent to May 9, 1956, and as to which no litigation was initiated by the Attorney General prior to July 1, 1966, shall be conclusively presumed not to have been in violation of any antitrust laws other than section 2 of title 15.

**(e) Antitrust litigation; substantive law applicable to proceedings pending on or after July 1, 1966, with respect to merger transactions**

Any court having pending before it on or after July 1, 1966, any litigation initiated under the antitrust laws by the Attorney General with respect to any acquisition, merger, or consolidation of the kind described in section 1842(a) of this title shall apply the substantive rule of law set forth in section 1842 of this title.

**(f) "Antitrust laws" defined**

For the purposes of this section, the term "antitrust laws" means the Act of July 2, 1890 (the Sherman Antitrust Act), the Act of October 15, 1914 (the Clayton Act), and any other Acts in pari materia.

(May 9, 1956, ch. 240, §11, 70 Stat. 146; Pub. L. 89-485, §11, July 1, 1966, 80 Stat. 240; Pub. L. 91-607, title I, §104, Dec. 31, 1970, 84 Stat. 1766; Pub. L. 95-188, title III, §303, Nov. 16, 1977, 91 Stat. 1390; Pub. L. 100-86, title V, §502(h)(3), Aug. 10, 1987, 101 Stat. 628; Pub. L. 103-325, title III, §321(a), Sept. 23, 1994, 108 Stat. 2226; Pub. L. 106-102, title I, §131, Nov. 12, 1999, 113 Stat. 1382.)

REFERENCES IN TEXT

Act of July 2, 1890 (the Sherman Antitrust Act), referred to in subsec. (f), is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 15, 1914 (the Clayton Act), referred to in subsec. (f), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

AMENDMENTS

1999—Subsec. (b)(1). Pub. L. 106-102 inserted before period at end of first sentence "and, if the transaction also involves an acquisition under section 1843 of this title, the Board shall also notify the Federal Trade Commission of such approval".

1994—Subsec. (b)(1). Pub. L. 103-325 inserted before period at end of fourth sentence "or, if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

1987—Subsec. (b). Pub. L. 100-86 designated existing provisions as par. (1) and added par. (2).

1977—Subsec. (b). Pub. L. 95-188 authorized a proposed acquisition, merger, or consolidation transaction to be consummated immediately upon approval by the Board where the Board has found that it must act immediately in order to prevent the probable failure of a bank or bank holding company involved in any such transaction; prohibited a transaction from being consummated before the fifth calendar day after the date of approval by the Board where the Board has advised the Comptroller of the Currency or the State supervisory authority, as the case may be, of the existence of an emergency requiring expeditious action and has required the submission of views and recommendations within ten days; continued for all other cases the thirty day waiting period after date of approval by the Board for consummation of the transaction; and substituted provision for commencement of stay actions prior to the earliest time at which the transaction approval under section 1842 of this title might be consummated for prior provision for commencement of such stay actions within the thirty-day waiting period.

1970—Subsec. (b). Pub. L. 91-607, §104(a), substituted "section 1842 of this title" for "this chapter" where appearing first two times, and inserted "approved under section 1842 of this title" in second sentence before "shall be commended" and in last sentence before "in compliance with this chapter".

Subsec. (c). Pub. L. 91-607, §104(b), substituted "under section 1842 of this title" for "pursuant to this chapter".

1966—Pub. L. 89-485 designated existing provisions as subsec. (a), inserted "except as specifically provided in this section", and added subsecs. (b) to (f).

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.

**§ 1850. Acquisition of subsidiary and tying arrangement: Federal Reserve Board proceedings; application for authorization; competitor as party in interest and person aggrieved; judicial review**

With respect to any proceeding before the Federal Reserve Board wherein an applicant seeks authority to acquire a subsidiary which is a bank under section 1842 of this title or to engage in an activity otherwise prohibited under chapter 22 of this title, a party who would become a competitor of the applicant or subsidiary thereof by virtue of the applicant's or its subsidiary's acquisition, entry into the business involved, or activity, shall have the right to be a party in interest in the proceeding and, in the event of an adverse order of the Board, shall have the right as an aggrieved party to obtain judicial review thereof as provided in section 1848 of this title or as otherwise provided by law.

(Pub. L. 91-607, title I, §105, Dec. 31, 1970, 84 Stat. 1766; Pub. L. 106-102, title I, §102(b)(1), Nov. 12, 1999, 113 Stat. 1341.)

CODIFICATION

Section was enacted as part of the Bank Holding Company Act Amendments of 1970, and not as part of the Bank Holding Company Act of 1956 which comprises this chapter.

AMENDMENTS

1999—Pub. L. 106-102 struck out " , to engage directly or indirectly in a nonbanking activity pursuant to section 1843 of this title," after "section 1842 of this title".

## 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 sections 1841, 3106 of this title.

**CHAPTER 18—BANK SERVICE COMPANIES**

Sec.

- 1861. Short title and definitions.
  - (a) Short title.
  - (b) Definitions.
- 1862. Amount of investment in bank service company.
- 1863. Permissible bank service company activities for depository institutions.
- 1864. Permissible bank service company activities for other persons.
  - (a) Services permissible other than taking deposits.
  - (b) Services to be performed in State where shareholders or members are located.
  - (c) Performance where State bank is shareholder or member.
  - (d) Performance where national bank is shareholder or member.
  - (e) Performance where State bank and national bank are shareholders or members.
  - (f) Geographic location.
- 1865. Prior approval for investments in bank service companies.
  - (a) Approval of Federal banking agency.
  - (b) Approval of Board.
  - (c) Considerations in determining approval.
  - (d) Failure to act on application for approval.
- 1866. Services to nonstockholders or nonmembers.
- 1867. Regulation and examination of bank service companies.
  - (a) Principal investor.
  - (b) Applicability of section 1818 of this title.
  - (c) Services performed by contract or otherwise.
  - (d) Issuance of regulations and orders.

## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 24a of this title.

**§ 1861. Short title and definitions****(a) Short title**

This chapter may be cited as the “Bank Service Company Act”.

**(b) Definitions**

For the purpose of this chapter—

(1) the term “appropriate Federal banking agency” shall have the meaning provided in section 1813(q) of this title;

(2) the term “bank service company” means—

(A) any corporation—

(i) which is organized to perform services authorized by this chapter; and

(ii) all of the capital stock of which is owned by 1 or more insured banks; and

(B) any limited liability company—

(i) which is organized to perform services authorized by this chapter; and

(ii) all of the members of which are 1 or more insured banks.

(3) the term “Board” means the Board of Governors of the Federal Reserve System;

(4) the term “depository institution” means an insured bank, financial institution subject to examination by the Federal Home Loan Bank Board or the National Credit Union Administration Board, or a financial institution the accounts or deposits of which are insured or guaranteed under State law and are eligible to be insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board;

(5) the term “insured bank” shall have the meaning provided in section 1813(h) of this title;

(6) the term “invest” includes any advance of funds to a bank service company, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment;

(7) 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 1813 of this title) which 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

(8) the term “principal investor” means the insured bank that has the largest dollar amount invested in the equity of a bank service company. In any case where two or more insured banks have equal dollar amounts invested in a bank service company, the company shall, prior to commencing operations, select one of the insured banks as its principal investor and shall notify the bank’s appropriate Federal banking agency of that choice within 5 business days of its selection.

(Pub. L. 87-856, §1, Oct. 23, 1962, 76 Stat. 1132; Pub. L. 97-320, title VII, §709, Oct. 15, 1982, 96 Stat. 1540; Pub. L. 97-457, §32(a), Jan. 12, 1983, 96 Stat. 2511; Pub. L. 104-208, div. A, title II, §2613(a), (b), Sept. 30, 1996, 110 Stat. 3009-476.)

## AMENDMENTS

1996—Subsec. (a). Pub. L. 104-208, §2613(a), inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “This chapter may be cited as the ‘Bank Service Corporation Act’.”

Subsec. (b)(2). Pub. L. 104-208, §2613(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the term ‘bank service corporation’ means a corporation organized to perform services authorized by this chapter, all of the capital stock of which is owned by one or more insured banks.”

Subsec. (b)(6). Pub. L. 104-208, §2613(b)(2), substituted “company” for “corporation” and struck out “and” after semicolon at end.

Subsec. (b)(7). Pub. L. 104-208, §2613(b)(3), added par. (7). Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 104-208, §2613(b)(4), substituted “company” for “corporation” wherever appearing and “equity” for “capital stock”.

Pub. L. 104-208, §2613(b)(3), redesignated par. (7) as (8). 1983—Subsec. (b)(4). Pub. L. 97-457 substituted “a” for “or another” after “insured bank,” and inserted reference to a financial institution insured by State law and eligible to be insured by certain Federal agencies.