

§ 3203. Dual service of management official of \$2,500,000,000 institution or holding company as management official of unaffiliated \$1,500,000,000 institution or holding company prohibited

If a depository institution or a depository holding company has total assets exceeding \$2,500,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other non-affiliated depository institution or depository holding company having total assets exceeding \$1,500,000,000 or as a management official of any affiliate of such other institution. In order to allow for inflation or market changes, the appropriate Federal depository institutions regulatory agencies may, by regulation, adjust, as necessary, the amount of total assets required for depository institutions or depository holding companies under this section.

(Pub. L. 95-630, title II, §204, Nov. 10, 1978, 92 Stat. 3673; Pub. L. 104-208, div. A, title II, §2210(a), Sept. 30, 1996, 110 Stat. 3009-409.)

AMENDMENTS

1996—Pub. L. 104-208 substituted “\$2,500,000,000” for “\$1,000,000,000” and “\$1,500,000,000” for “\$500,000,000” and inserted at end “In order to allow for inflation or market changes, the appropriate Federal depository institutions regulatory agencies may, by regulation, adjust, as necessary, the amount of total assets required for depository institutions or depository holding companies under this section.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3204, 3205, 3207 of this title.

§ 3204. Exceptions

The prohibitions contained in sections 3202 and 3203 of this title shall not apply in the case of any one or more of the following or subsidiary thereof:

(1) A depository institution or depository holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

(2) A corporation operating under section 25 or 25(a)¹ of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.].

(3) A credit union being served by a management official of another credit union.

(4) A depository institution or depository holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

(5) A State-chartered savings and loan guaranty corporation.

(6) A Federal Home Loan Bank or any other bank organized specifically to serve depository institutions.

(7) A depository institution or a depository holding company which—

(A) is closed or is in danger of closing, as determined by the appropriate Federal de-

pository institutions regulatory agency in accordance with regulations prescribed by such agency; and

(B) is acquired by another depository institution or depository holding company,

during the 5-year period beginning on the date of the acquisition of the depository institution or depository holding company described in subparagraph (A).

(8)(A) A diversified savings and loan holding company (as defined in section 1730a(a)(1)(F)¹ of this title) with respect to the service of a director of such company who is also a director of any nonaffiliated depository institution or depository holding company (including a savings and loan holding company) if—

(i) notice of the proposed dual service is given by such diversified savings and loan holding company to—

(I) the appropriate Federal depository institutions regulatory agency for such company; and

(II) the appropriate Federal depository institutions regulatory agency for the non-affiliated depository institution or depository holding company of which such person is also a director,

not less than 60 days before such dual service is proposed to begin; and

(ii) the proposed dual service is not disapproved by any such appropriate Federal depository institutions regulatory agency before the end of such 60-day period.

(B) Any appropriate Federal depository institutions regulatory agency may disapprove, under subparagraph (A)(ii), a notice of proposed dual service by any individual if such agency finds that—

(i) the dual service cannot be structured or limited so as to preclude the dual service's resulting in a monopoly or substantial lessening of competition in financial services in any part of the United States;

(ii) the dual service would lead to substantial conflicts of interest or unsafe or unsound practices; or

(iii) the diversified savings and loan holding company has neglected, failed, or refused to furnish all the information required by such agency.

(C) Any appropriate Federal depository institutions regulatory agency may, at any time after the end of the 60-day period referred to in subparagraph (A), require that any dual service by any individual which was not disapproved by such agency during such period be terminated if a change in circumstances occurs with respect to any depository institution or depository holding company of which such individual is a director that would have provided a basis for disapproval of the dual service during such period.

(9) Any savings association (as defined in section 10(a)(1)(A) of the Home Owners' Loan Act [12 U.S.C. 1467a(a)(1)(A)] or any savings and loan holding company (as defined in section 10(a)(1)(D) of such Act) which has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of such Act,

¹ See References in Text note below.

except that this paragraph shall apply only with respect to service as a single management official of such savings association or holding company, or any subsidiary of such savings association or holding company, by a single management official of the savings and loan holding company which purchased the stock issued in connection with such qualified stock issuance, and shall apply only when the Director of the Office of Thrift Supervision has determined that such service is consistent with the purposes of this chapter and the Home Owners' Loan Act [12 U.S.C. 1461 et seq.].

(Pub. L. 95-630, title II, §205, Nov. 10, 1978, 92 Stat. 3673; Pub. L. 97-320, title IV, §425(d), Oct. 15, 1982, 96 Stat. 1524; Pub. L. 100-650, §§4, 5(a), Nov. 10, 1988, 102 Stat. 3819; Pub. L. 101-73, title VI, §604(a), Aug. 9, 1989, 103 Stat. 410.)

REFERENCES IN TEXT

Section 25 of the Federal Reserve Act, referred to in par. (2), is classified to subchapter I (§601 et seq.) of chapter 6 of this title. Section 25(a) of the Federal Reserve Act, 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 1730a of this title, referred to in par. (8)(A), was repealed by Pub. L. 101-73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

This chapter, referred to in par. (9), was in the original "this Act" and was translated as reading "this title", meaning title II of Pub. L. 95-630, known as the Depository Management Interlocks Act, to reflect the probable intent of Congress.

The Home Owners' Loan Act, referred to in par. (9), is act June 13, 1933, ch. 64, 48 Stat. 128, as amended, which is classified generally to chapter 12 (§1461 et seq.) of this title. For complete classification of this Act to the Code, see section 1461 of this title and Tables.

AMENDMENTS

1989—Par. (9). Pub. L. 101-73 added par. (9).

1988—Par. (7). Pub. L. 100-650, §4, added par. (7).

Par. (8). Pub. L. 100-650, §5(a), added par. (8).

1982—Par. (2). Pub. L. 97-320 substituted "25(a)" for "25A".

§ 3205. Management official in position prior to November 10, 1978

(a) Continuation of service

A person whose service in a position as a management official began prior to November 10, 1978, and who was not immediately prior to November 10, 1978, in violation of section 19 of title 15 is not prohibited by section 3202 or section 3203 of this title from continuing to serve in that position. The appropriate Federal depository institutions regulatory agency may provide a reasonable period of time for compliance with this chapter, not exceeding fifteen months, after any change in circumstances which makes service described in the preceding sentence prohibited by this chapter, except that a merger, acquisition, increase in total assets, establishment of one or more offices, or change in management responsibilities shall not constitute changes in circumstances which would make such service prohibited by section 3202 or section 3203 of this title.

(b) Depository institution and diversified savings and loan holding company

Effective on November 10, 1978, a person who serves as a management official of a company which is not a depository institution or a depository holding company and as a management official of a depository institution or a depository holding company is not prohibited from continuing to serve as a management official of that depository institution or depository holding company as a result of that company which is not a depository institution or depository holding company becoming a diversified savings and loan holding company as that term is defined in section 1730a(a)¹ of this title.

(Pub. L. 95-630, title II, §206, Nov. 10, 1978, 92 Stat. 3674; Pub. L. 97-110, title III, §302, Dec. 26, 1981, 95 Stat. 1515; Pub. L. 100-650, §§5(b)(2), 6, Nov. 10, 1988, 102 Stat. 3820, 3821; Pub. L. 103-325, title III, §338(a), Sept. 23, 1994, 108 Stat. 2235; Pub. L. 104-208, div. A, title II, §2210(b), Sept. 30, 1996, 110 Stat. 3009-410.)

REFERENCES IN TEXT

Section 1730a of this title, referred to in subsec. (b), was repealed by Pub. L. 101-73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-208, §2210(b)(1), struck out "for a period of, subject to the requirements of subsection (c) of this section, 20 years after November 10, 1978" after "continuing to serve in that position".

Subsec. (b). Pub. L. 104-208, §2210(b)(2), struck out at end "This subsection shall expire, subject to the requirements of subsection (c) of this section, 20 years after November 10, 1978."

Subsec. (c). Pub. L. 104-208, §2210(b)(3), struck out subsec. (c) which related to review of existing management interlocks.

1994—Subsecs. (a), (b). Pub. L. 103-325, §338(a)(1), substituted ", subject to the requirements of subsection (c) of this section, 20 years after November 10, 1978" for "15 years after November 10, 1978".

Subsec. (c). Pub. L. 103-325, §338(a)(2), added subsec. (c).

1988—Subsec. (a). Pub. L. 100-650, §5(b)(2), substituted "depository institutions regulatory agency" for "banking agency (as set forth in section 3207 of this title)".

Pub. L. 100-650, §6, substituted "15 years" for "ten years".

Subsec. (b). Pub. L. 100-650, §6, substituted "15 years" for "ten years".

1981—Pub. L. 97-110 designated existing provisions as subsec. (a), inserted provision that a merger, acquisition, increase in total assets, establishment of one or more offices, or change in management responsibilities shall not constitute changes in circumstances which would make such service prohibited by section 3202 or 3203 of this title, and added subsec. (b).

§ 3206. Administration and enforcement

This chapter shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to

¹ See References in Text note below.