

Title VI – Bank Holding Company and Depository Institution Regulatory Improvements Act of 2009

Section-by-Section Analysis

Section 601. Short Title

Section 602. Treatment of Credit Card Banks, Industrial Loan Companies, Thrifts, and Certain Other Companies as Bank Holding Companies under the Bank Holding Company Act

This section amends the Bank Holding Company Act of 1956 to eliminate exceptions for companies that control depository institutions that do not fit within the legal definition of “bank” and thus are not regulated as bank holding companies, including “non-bank” banks, credit card banks, trust companies, and industrial loan companies.

Section 603. Registration of Certain Companies as Bank Holding Companies

This section requires bank holding companies that became bank holding companies after the enactment of the Bank Holding Company Modernization Act of 2009 to register as bank holding companies with the Board of Governors of the Federal Reserve System (“Board”) within 180 days of the enactment of this Act.

Section 604. Reports and Examinations of Bank Holding Companies; Regulation of Functionally Regulated Subsidiaries

This section removes constraints on the ability of the Board to obtain reports from bank holding companies and functionally regulated subsidiaries of bank holding companies. The Board must also consider the effect of proposed acquisitions of banks by bank holding companies on financial stability or the economy of the United States.

Section 605. Requirements for Financial Holding Companies to Remain Well Capitalized and Well Managed

This section amends the Bank Holding Company Act of 1956 to require all financial holding companies engaging in expanded financial activities to remain well capitalized and well managed.

Section 606. Standards for Interstate Acquisitions

This section raises the capital and management standards for bank holding companies engaging in interstate bank acquisitions by requiring them to be well capitalized and well managed.

Section 607. Enhancing Existing Restrictions on Bank Transactions with Affiliates

This section amends section 23A of the Federal Reserve Act by, among other things, defining an investment fund for which the member bank is an investment adviser as an affiliate of the member bank and adding derivative transaction credit exposure to the list of covered transactions.

Section 608. Eliminating Exceptions for Transactions with Financial Subsidiaries

This section amends section 23A of the Federal Reserve Act by eliminating the special treatment for transactions with financial subsidiaries.

Section 609. Lending Limits Applicable to Credit Exposure on Derivative Transactions, Repurchase Agreements, Reverse Repurchase Agreements, and Securities Lending and Borrowing Transactions

This section tightens national bank lending limits by treating credit exposures on over-the-counter derivatives, repurchase agreements, and reverse repurchase agreements as extensions of credit for the purposes of national bank lending limits.

Section 610. Application of National Bank Lending Limits to Insured State Banks

This section requires all insured state depository institutions to comply with national bank lending limits.

Section 611. Restriction on Conversions of Troubled Banks

This section prohibits conversions from a state bank charter to a national banking charter or vice versa during any time in which a bank is subject to a cease and desist order, memorandum of understanding or other enforcement action.

Section 612. De Novo Branching into States

This section expands the ability of a national bank or state bank to establish a de novo branch in another state.

Section 613. Lending Limits to Insiders

This section expands the type of transactions subject to insider lending limits to include derivatives transactions, repurchase agreements, reverse repurchase agreements, and securities lending or borrowing transactions.

Section 614. Limitations on Purchases of Assets from Insiders

This section prohibits insured depository institutions from entering into asset purchase or sales transactions with its executive officers, directors, or principal shareholders or a related interest unless the transaction is on market terms and, if the transaction represents more than ten percent of the capital and surplus of the institution, has been approved in advance by a majority of the disinterested members of the board.

Section 615. Assessment of Fees for Examinations

This section amends section 36 of the Federal Deposit Insurance Act by requiring the Board, the Federal Deposit Insurance Corporation (“FDIC”), and the National Bank Supervisor to jointly adopt rules to coordinate the assessment of fees for the examination of banks, bank holding companies, and Tier 1 financial holding companies subject to their jurisdiction.

Section 616. Rules Regarding Capital Levels of Bank Holding Companies

This section amends section 5(b) of the Bank Holding Company Act of 1956 to clarify that the Board may adopt rules governing the capital levels of bank holding companies.