

# **Title VIII – Payment, Clearing, and Settlement Supervision Act of 2009**

## **Section-by-Section Analysis**

### **Section 801. Short Title**

### **Section 802. Findings and Purposes**

This section describes the findings and purposes of the Payment, Clearing, and Settlement Supervision Act of 2009. In order to mitigate systemic risk in the financial system and promote financial stability, this Act provides the Board of Governors of the Federal Reserve System (“Board”) with an enhanced role in supervising risk management standards for systemically important financial market utilities and for systemically important payment, clearing, and settlement activities conducted by financial institutions.

### **Section 803. Definitions**

### **Section 804. Designation of Systemic Importance**

This section authorizes the Board to designate a financial market utility or a payment, clearing, or settlement activity as systemically important, and establishes procedures and criteria for making and rescinding such a designation. Criteria for designation and rescission of designation include the aggregate monetary value of transactions processed and the effect that a failure of a financial market utility or payment, clearing, or settlement activity would have on the financial system. The Board must consult with the Financial Services Oversight Council and the relevant supervisory agency before making a designation.

### **Section 805. Standards for Systemically Important Financial Market Utilities and Payment, Clearing, or Settlement Activities**

This section authorizes the Board, in consultation with the Financial Services Oversight Council, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, to prescribe risk management standards governing the operations of designated financial market utilities and the conduct of designated payment, clearing, and settlement activities by financial institutions. This section also establishes the objectives, principles, and scope of such standards.

### **Section 806. Operations of Designated Financial Market Utilities**

This section authorizes a Federal Reserve bank to establish and maintain an account for a designated financial market utility and allows the Board to modify or provide an exemption from reserve requirements that would otherwise be applicable to the designated financial market utility. This section requires a designated financial market utility to provide advance notice of and obtain approval of material changes to its rules, procedures, or operations.

### **Section 807. Examination and Enforcement Actions against Designated Financial Market Utilities**

This section requires the appropriate supervisory agency to conduct safety and soundness examinations of a designated financial market utility at least annually and authorizes the supervisory agency to take enforcement actions against the utility. This section also allows the

Board to participate in examinations by, and make recommendations to, other supervisors and designates the Board as the supervisory agency for designated financial market utilities that do not otherwise have a supervisory agency. The Board is also authorized to take enforcement actions against a designated financial market utility if there is an imminent risk of substantial harm to financial institutions or the broader financial system.

**Section 808. Examination and Enforcement Actions against Financial Institutions Engaged in Designated Activities**

This section authorizes the appropriate financial regulator to examine a financial institution engaged in designated payment, clearing, or settlement activities and to enforce the provisions of this Act and the rules prescribed by the Board against such an institution. This section also requires the Board to collaborate with the appropriate financial regulator to ensure consistent application of the Board's rules. The Board is granted back-up authority to conduct examinations and take enforcement actions if it has reasonable cause to believe a violation of its rules or of this Act has occurred.

**Section 809. Requests for Information, Reports, or Records**

This section authorizes the Board to collect information from financial market utilities and financial institutions engaged in designated payment, clearing, or settlement activities in order to assess systemic importance. The Board may also require submission of reports or data by systemically important financial market utilities or financial institutions engaged in activities designated to be systemically important. This section also facilitates sharing of relevant information and coordination among financial regulators, with protections for confidential information.

**Section 810. Rulemaking**

This section authorizes the Board to prescribe such rules and issue such orders as may be necessary to administer and carry out the purposes of this title and prevent evasions thereof.

**Section 811. Other Authority**

This section clarifies that this Act, unless otherwise provided by its terms, does not divest any appropriate financial regulator, supervisory agency, or other Federal or State agency of any authority derived from any other applicable law.

**Section 812. Effective Date**

This section specifies that this Act shall be effective as of the date of enactment.