

Proposed Legislation to Add Flexibility to the Federal Savings Association Charter

SEC. ____. PROVIDING ADDITIONAL FLEXIBILITY FOR FEDERAL SAVINGS ASSOCIATIONS.

(a) AMENDMENT.—The Home Owners’ Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 (12 U.S.C. 1464) the following:

“SEC. 5A. ELECTION TO OPERATE AS A COVERED SAVINGS ASSOCIATION.

(a) DEFINITION.—In this section, the term ‘covered savings association’ means a Federal savings association that makes an election approved under subsection (b)(3).

(b) ELECTION.—

(1) IN GENERAL.—A Federal savings association may elect to operate as a covered savings association in accordance with this section.

(2) NOTICE OF ELECTION.—A Federal savings association shall notify the Comptroller of an election under paragraph (1).

(3) APPROVAL.—An election by a Federal savings association under paragraph (1) shall be deemed to be approved on the date that is 60 days after the date on which the Comptroller receives the notice under paragraph (2), unless the Comptroller notifies the Federal savings association otherwise.

(c) RIGHTS AND DUTIES.—Notwithstanding any other provision of law, and except as otherwise provided in this section, a covered savings association shall have the same rights and privileges as a national bank that has its main office at the same location as the home office of the covered savings association and shall be subject to the same duties, restrictions, penalties (whether criminal or civil), liabilities, conditions, and limitations that would apply to a national bank that has its main office at the same location as the home office of the covered savings association.

(d) GOVERNANCE.—The provisions of law relating to the governance of Federal savings associations, including incorporation, bylaws, boards of directors, shareholders, and dividends, shall continue to apply to a covered savings association.

(e) CORPORATE LIFECYCLE.—For purposes of consolidation, merger, dissolution, conversion (including mutual to stock conversion and conversion to another charter), conservatorship, and receivership, a covered savings association shall continue to be treated as a Federal savings association.

(f) FEDERAL RESERVE MEMBERSHIP.—A covered savings association may not be admitted to membership in a Federal reserve bank.

(g) SUBSIDIARIES.—

(1) ACTIVITIES.—Except as may be provided by the Comptroller in regulations issued under subsection (i)(2)(C), a subsidiary of a covered savings association may not engage in any activity that would not be permissible for a subsidiary of a national bank.

(2) NEW SUBSIDIARIES.—On and after the date on which an election is approved under subsection (b), a covered savings association may establish a subsidiary that would be permissible for a national bank to establish.

(h) BRANCHES.—

(1) EXISTING BRANCHES.—A covered savings association may continue to operate any branch or agency the covered savings association operated on the date on which the election under subsection (b) is approved.

(2) NEW BRANCHES.—On and after the date on which an election under subsection (b) is approved, a covered savings association may establish, acquire, and operate an additional branch at any location in which a national bank would be permitted to establish, acquire, and operate a branch.

(i) RULEMAKING.—

(1) IN GENERAL.—The Comptroller shall issue regulations to carry out this section.

(2) CONTENTS.—The regulations issued by the Comptroller under this subsection shall—

(A) provide that covered savings associations are not subject to section 5(c) or 10(m) of this Act;

(B) establish streamlined standards and procedures for the election under subsection (b);

(C) provide for the treatment of non-conforming assets and subsidiaries after an election under subsection (b);

(D) establish standards and procedures to allow a covered savings association to terminate an election under subsection (b) after an appropriate period of time and in a manner that prevents evasions of the requirements of this Act; and

(E) include any other provision that the Comptroller determines is necessary, consistent with applicable safety and soundness standards—

(i) to allow covered savings associations to operate without the restrictions otherwise applicable to Federal savings associations;

(ii) to clarify the provisions of law that apply to covered savings associations; or

(iii) to carry out this section.”

(b) EFFECTIVE DATE OF ELECTION.—A Federal savings association may not make an election under section 5A(b)(1) of the Home Owners’ Loan Act, as added by this section, before the date on which final regulations issued by the Comptroller of the Currency under subsection (i) of such section 5A first take effect.