

TITLE 12 - BANKS AND BANKING
CHAPTER 17 - BANK HOLDING COMPANIES

§ 1848a. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board

(a) Limitation on direct action

The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this chapter or section 1818 of this title against or with respect to a functionally regulated subsidiary of a bank holding company unless—

- (1) the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—
 - (A) the financial safety, soundness, or stability of an affiliated depository institution; or
 - (B) the domestic or international payment system; and
- (2) the Board finds that it is not reasonably possible to protect effectively against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

(b) Limitation on indirect action

The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this chapter or section 1818 of this title against or with respect to a bank holding company that requires the bank holding company to require a functionally regulated subsidiary of the holding company to engage, or to refrain from engaging, in any conduct or activities unless the Board could take such action directly against or with respect to the functionally regulated subsidiary in accordance with subsection (a) of this section.

(c) Actions specifically authorized

Notwithstanding subsection (a) or (b) of this section, the Board may take action under this chapter or section 1818 of this title to enforce compliance by a functionally regulated subsidiary of a bank holding company with any Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

(d) Functionally regulated subsidiary defined

For purposes of this section, the term “functionally regulated subsidiary” has the meaning given the term in section 1844 (c)(5) of this title.

(May 9, 1956, ch. 240, § 10A, as added Pub. L. 106–102, title I, § 113, Nov. 12, 1999, 113 Stat. 1368.)

Effective Date

Section effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106–102, set out as an Effective Date of 1999 Amendment note under section 24 of this title.