

TITLE 12 - BANKS AND BANKING
CHAPTER 16 - FEDERAL DEPOSIT INSURANCE CORPORATION

§ 1833a. Civil penalties

(a) In general

Whoever violates any provision of law to which this section is made applicable by subsection (c) of this section shall be subject to a civil penalty in an amount assessed by the court in a civil action under this section.

(b) Maximum amount of penalty

(1) Generally

The amount of the civil penalty shall not exceed \$1,000,000.

(2) Special rule for continuing violations

In the case of a continuing violation, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the lesser of \$1,000,000 per day or \$5,000,000.

(3) Special rule for violations creating gain or loss

(A) If any person derives pecuniary gain from the violation, or if the violation results in pecuniary loss to a person other than the violator, the amount of the civil penalty may exceed the amounts described in paragraphs (1) and (2) but may not exceed the amount of such gain or loss.

(B) As used in this paragraph, the term “person” includes the Bank Insurance Fund, the Savings Association Insurance Fund, and after the merger of such funds, the Deposit Insurance Fund, and the National Credit Union Share Insurance Fund.

(c) Violations to which penalty is applicable

This section applies to a violation of, or a conspiracy to violate—

(1) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18;

(2) section 287, 1001, 1032,¹ 1341 or 1343 of title 18 affecting a federally insured financial institution; or

(3) section 645 (a) of title 15.

(d) Effective date

This section shall apply to violations occurring on or after August 10, 1984.

(e) Attorney General to bring action

A civil action to recover a civil penalty under this section shall be commenced by the Attorney General.

(f) Burden of proof

In a civil action to recover a civil penalty under this section, the Attorney General must establish the right to recovery by a preponderance of the evidence.

(g) Administrative subpoenas

(1) In general

For the purpose of conducting a civil investigation in contemplation of a civil proceeding under this section, the Attorney General may—

(A) administer oaths and affirmations;

(B) take evidence; and

(C) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the

production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

(2) Procedures applicable

The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18 apply with respect to a subpoena issued under this subsection. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

(3) Limitation

In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under paragraph (2) not later than 5 days after the date of service.

(h) Statute of limitations

A civil action under this section may not be commenced later than 10 years after the cause of action accrues.

Footnotes

¹ See 1990 Amendment note below.

(Pub. L. 101–73, title IX, § 951, Aug. 9, 1989, 103 Stat. 498; Pub. L. 101–647, title XXV, §§ 2533, 2596 (d), Nov. 29, 1990, 104 Stat. 4882, 4908; Pub. L. 103–322, title XXXIII, § 330003(g), Sept. 13, 1994, 108 Stat. 2141; Pub. L. 104–208, div. A, title II, § 2704(d)(15)(A), Sept. 30, 1996, 110 Stat. 3009–494; Pub. L. 107–100, § 4(b), Dec. 21, 2001, 115 Stat. 966; Pub. L. 109–171, title II, § 2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, § 9(g)(1), Feb. 15, 2006, 119 Stat. 3618.)

Codification

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

Amendments

2006—Subsec. (b)(3)(B). Pub. L. 109–173 inserted “and after the merger of such funds, the Deposit Insurance Fund,” after “the Savings Association Insurance Fund.”

Pub. L. 109–171 repealed Pub. L. 104–208, § 2704(d)(15)(A). See 1996 Amendment note below.

2001—Subsec. (c). Pub. L. 107–100, § 4(b)(2)(D), designated concluding provisions as (d) and inserted heading.

Subsec. (c)(2). Pub. L. 107–100, § 4(b)(2)(B)(i), which directed the substitution of “1341” for “1341;”, could not be executed because par. (2) does not contain a semicolon after “1341”.

Subsec. (c)(3). Pub. L. 107–100, § 4(b)(2)(A), (B)(ii), (C), added par. (3).

Subsec. (d) to (h). Pub. L. 107–100, § 4(b)(1), (2)(D), designated concluding provisions of subsec. (c) as (d), inserted heading, and redesignated former subsecs. (d) to (g) as (e) to (h), respectively.

1996—Subsec. (b)(3)(B). Pub. L. 104–208, § 2704(d)(15)(A), which directed substitution of “Deposit Insurance Fund” for “Bank Insurance Fund, the Savings Association Insurance Fund.”, was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1994—Subsec. (c). Pub. L. 103–322 amended directory language of Pub. L. 101–647, § 2596(d). See 1990 Amendment note below.

1990—Subsec. (c). Pub. L. 101–647, § 2596(d)(2), as amended by Pub. L. 103–322, inserted at end a flush sentence “This section shall apply to violations occurring on or after August 10, 1984.”

Subsec. (c)(2). Pub. L. 101–647, § 2596(d)(1), as amended by Pub. L. 103–322, which directed insertion of “287, 1001, 1032,” before “1341;”, was executed by making the insertion before “1341 or 1343” to reflect the probable intent of Congress.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Subsec. (g). Pub. L. 101-647, § 2533, added subsec. (g).

Effective Date of 2006 Amendment

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109-171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109-171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

Effective Date of 1996 Amendment

Amendment by Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

Effective Date of 1994 Amendment

Section 330003(g) of Pub. L. 103-322 provided that the amendment made by that section is effective retroactively to the date of enactment of Pub. L. 101-647, which was approved Nov. 29, 1990.