

Subsec. (b). Pub. L. 86-671, §5(a), designated existing provisions of former first par. as subsec. (b).

Subsec. (c). Pub. L. 86-671, §5(b), designated existing provisions of former second par. as subsec. (c) and substituted "four" for "three" in first sentence.

1959—Pub. L. 86-230 required transmission of reports to the Comptroller within ten instead of five days and the making of reports of the payment of dividends including advance reports of dividends proposed to be declared or paid, respectively.

1933—Act June 16, 1933, added second par.

1927—Act Feb. 25, 1927, inserted "or of a vice-president, or of an assistant cashier of the association designated by its board of directors to verify such reports in the absence of the president and cashier, taken before a notary public properly authorized and commissioned by the State in which such notary resides and the association is located, or any other officer having an official seal, authorized in such State to administer oaths" in first sentence, and "and the statement of resources and liabilities together with acknowledgment and attestation", in second sentence.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 911(i)(g) of Pub. L. 101-73 provided that: "The amendments made by this section [amending this section and sections 164, 324, 1782, 1817, 1847, and 1882 of this title] shall apply with respect to reports filed or required to be filed after the date of the enactment of this Act [Aug. 9, 1989]."

#### EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-671 effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as a note under section 1817 of this title.

#### EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

### § 162. Repealed. Pub. L. 86-671, § 6, July 14, 1960, 74 Stat. 552.

Section, act Feb. 26, 1881, ch. 82, 21 Stat. 352, prescribed the manner of verification of reports of condition of national banks. See section 1817 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as an Effective Date of 1960 Amendment note under section 1817 of this title.

### § 163. Repealed. Pub. L. 86-230, § 22(a), Sept. 8, 1959, 73 Stat. 466

Section, R.S. §5212, related to report of dividends and net earnings. See section 161 of this title.

### § 164. Penalty for failure to make reports

#### (a) First tier

Any association which—

(1) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

(A) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 161 of this title, within the period of time specified by the Comptroller; or

(B) submits or publishes any false or misleading report or information; or

(2) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than \$2,000 for each day during which such failure

continues or such false or misleading information is not corrected. The association shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

#### (b) Second tier

Any association which—

(1) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 161 of this title, within the period of time specified by the Comptroller; or

(2) submits or publishes any false or misleading report or information,

in a manner not described in subsection (a) of this section shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected.

#### (c) Third tier

Notwithstanding subsections (a) and (b) of this section, if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (b) of this section submits or publishes any false or misleading report or information, the Comptroller may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of the association, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

#### (d) Assessment; etc.

Any penalty imposed under subsection (a), (b), or (c) of this section shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

#### (e) Hearing

Any association against which any penalty is assessed under this subsection<sup>1</sup> shall be afforded an agency hearing if such association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this section.

(R.S. §5213; Pub. L. 86-230, §12, Sept. 8, 1959, 73 Stat. 458; Pub. L. 101-73, title IX, §911(b)(2), Aug. 9, 1989, 103 Stat. 478.)

#### CODIFICATION

R.S. §5213 derived from act Mar. 3, 1869, ch. 130, §§1, 2, 15 Stat. 326, 327.

#### AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: "Every association which fails to make and transmit any report required under section 161 of this title shall be subject to a penalty of \$100 for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report. Whenever any association delays or refuses to pay the penalty herein imposed, after it has

<sup>1</sup> So in original. Probably should be "section".

been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States."

1959—Pub. L. 86-230 substituted "section 161 of this title" for "either section 161 or 163 of this title".

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable with respect to reports filed or required to be filed after Aug. 9, 1989, see section 911(i) of Pub. L. 101-73, set out as a note under section 161 of this title.

#### EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

### § 165. Omitted

#### CODIFICATION

Section, R.S. §5241, related to limitation of visitatorial powers. See section 484 of this title.

### SUBCHAPTER XI—MISCELLANEOUS PROVISIONS REGARDING UNITED STATES BONDS IN RELATION TO NATIONAL BANKS

### §§ 168 to 177. Repealed. Pub. L. 103-325, title VI, § 602(e)(24)–(31), (f)(4)(D), (5)(A), Sept. 23, 1994, 108 Stat. 2292, 2293

Section 168, R.S. §5160, authorized associations to take up bonds upon returning circulating notes to Comptroller of the Currency.

Section 169, R.S. §5161, related to exchange of United States coupon bonds for registered bonds.

Section 170, R.S. §5162; Aug. 23, 1935, ch. 614, §313, 49 Stat. 711, related to manner of making transfers of bonds.

Section 171, R.S. §5163, related to establishment of registry of transferred bonds by Comptroller of the Currency.

Section 172, R.S. §5164, required Comptroller of the Currency to notify national banking associations of transfers from its accounts.

Section 173, R.S. §5165, related to examination of registry and bonds by Comptroller of the Currency and Treasurer of United States.

Section 174, R.S. §5166, related to annual examination of bonds by national banking associations.

Section 175, R.S. §5167, related to custody of bonds and collection of interest.

Section 176, acts June 20, 1874, ch. 343, §4, 18 Stat. 124; June 21, 1917, ch. 32, §9, 40 Stat. 239, provided that associations desiring to withdraw circulating notes could, upon deposit of money with Treasurer of United States, withdraw bonds on deposit with Treasurer for security of such notes.

Section 177, acts July 12, 1882, ch. 290, §8, 22 Stat. 164; Mar. 14, 1900, ch. 41, §12, 31 Stat. 49; June 21, 1917, ch. 32, §9, 40 Stat. 239, related to amount of bonds banks were required to keep on deposit with Treasurer of United States, as security for circulating notes, and authorized banks having deposits in excess of such amount to reduce, or retire in full, their circulation by depositing lawful money.

### § 177a. Funds available for cost of transporting and redeeming national and Federal Reserve bank notes

The cost of transporting and redeeming outstanding national bank notes and Federal Re-

serve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.

(Oct. 10, 1940, ch. 841, 54 Stat. 1093; Pub. L. 103-325, title VI, §602(g)(10), Sept. 23, 1994, 108 Stat. 2294.)

#### AMENDMENTS

1994—Pub. L. 103-325 amended section generally. Prior to amendment, section read as follows: "After the reimbursement to the Treasury from funds derived from assessments made pursuant to section 177 of this title, of all costs lawfully charged thereto for the fiscal year ending June 30, 1941, the balance of such funds shall be covered into the Treasury as miscellaneous receipts; and thereafter the cost of transporting and redeeming such outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriations for the Treasury Department."

### § 178. Repealed. Pub. L. 103-325, title VI, § 602(f)(5)(B), Sept. 23, 1994, 108 Stat. 2293

Section, acts July 12, 1882, ch. 290, §9, 22 Stat. 164; Mar. 14, 1900, ch. 41, §12, 31 Stat. 49; Mar. 4, 1907, ch. 2913, §4, 34 Stat. 1290, authorized national banking associations desiring to withdraw circulating notes to deposit money with Treasurer of United States and withdraw bonds or other securities securing such notes.

### SUBCHAPTER XII—VOLUNTARY DISSOLUTION

### § 181. Voluntary dissolution; appointment and removal of liquidating agent or committee; examination

Any association may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock. If the liquidation is to be effected in whole or in part through the sale of any of its assets to and the assumption of its deposit liabilities by another bank, the purchase and sale agreement must also be approved by its shareholders owning two-thirds of its stock unless an emergency exists and the Comptroller of the Currency specifically waives such requirement for shareholder approval.

The shareholders shall designate one or more persons to act as liquidating agent or committee, who shall conduct the liquidation in accordance with law and under the supervision of the board of directors, who shall require a suitable bond to be given by said agent or committee. The liquidating agent or committee shall render annual reports to the Comptroller of the Currency on the 31st day of December of each year showing the progress of said liquidation until the same is completed. The liquidating agent or committee shall also make an annual report to a meeting of the shareholders to be held on the date fixed in the articles of association for the annual meeting, at which meeting the shareholders may, if they see fit, by a vote representing a majority of the entire stock of the bank, remove the liquidating agent or committee and appoint one or more others in place thereof. A special meeting of the shareholders may be called at any time in the same manner as if the bank continued an active bank and at said meeting the shareholders may, by vote of the major-