''FEDERAL FUNCTIONAL REGULATOR'' INCLUDES COMMODITY FUTURES TRADING COMMISSION

For purposes of Pub. L. 107–56 and any amendment by Pub. L. 107–56, the term ''Federal functional regulator'' includes the Commodity Futures Trading Commission, see section 321(c) of Pub. L. 107–56, set out as a note under section 5318 of this title.

§ 5319. Availability of reports

The Secretary of the Treasury shall make information in a report filed under this subchapter available to an agency, including any State financial institutions supervisory agency, United States intelligence agency or self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission, upon request of the head of the agency or organization. The report shall be available for a purpose that is consistent with this subchapter. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes or by United States intelligence agencies. However, a report and records of reports are exempt from disclosure under section 552 of title 5, and may not be disclosed under any State, local, tribal, or territorial ''freedom of information'', ''open government'', or similar law.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 999; Pub. L. 102–550, title XV, § 1506, Oct. 28, 1992, 106 Stat. 4055; Pub. L. 107–56, title III, § 358(c), Oct. 26, 2001, 115 Stat. 326; Pub. L. 112–74, div. C, title I, § 119, Dec. 23, 2011, 125 Stat. 891.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5319	31:1052(j). 31:1061.	Oct. 26, 1970, Pub. L. 91–508, §§ 203(j), 212, 84 Stat. 1120, 1121.

The words ''upon such conditions and pursuant to such procedures as he may by regulation prescribe'' and ''set forth'' in 31:1061, and the word ''specifically'' in 31:1052(j), are omitted as surplus.

AMENDMENTS

2011—Pub. L. 112–74 inserted '', and may not be disclosed under any State, local, tribal, or territorial 'freedom of information', 'open government', or similar law'' after ''section 552 of title 5''.

2001—Pub. L. 107–56 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''The Secretary of the Treasury shall make information in a report filed under section 5313, 5314, or 5316 of this title available to an agency, including any State financial institutions supervisory agency, on request of the head of the agency. The report shall be available for a purpose consistent with those sections or a regulation prescribed under those sections. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes. However, a report and records of reports are exempt from disclosure under section 552 of title 5.''

1992—Pub. L. 102–550 substituted ''to an agency, including any State financial institutions supervisory agency,'' for ''to an agency'' in first sentence and inserted after second sentence ''The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.''

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 applicable with respect to reports filed or records maintained on, before, or after Oct. 26, 2001, see section 358(h) of Pub. L. 107–56, set out as a note under section 1829b of Title 12, Banks and Banking.

§ 5320. Injunctions

When the Secretary of the Treasury believes a person has violated, is violating, or will violate this subchapter or a regulation prescribed or order issued under this subchapter, the Secretary may bring a civil action in the appropriate district court of the United States or appropriate United States court of a territory or possession of the United States to enjoin the violation or to enforce compliance with the subchapter, regulation, or order. An injunction or temporary restraining order shall be issued without bond.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 999.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5320	31:1057. 31:1143(b)(words before last comma).	Oct. 26, 1970, Pub. L. 91–508, § 208, 84 Stat. 1120. Sept. 21, 1973, Pub. L. 93–110, § 203(b)(words before last comma), 87 Stat. 353.

The words ''has violated, is violating, or will violate this subchapter'' are substituted for ''has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of the provisions of this chapter'' in 31:1057 and ''failed to submit a report required under any rule or regulation issued under this subchapter or has violated any rule or regulation issued hereunder'' in 31:1143(b)(words before last comma) to eliminate unnecessary words. The words ''or a regulation prescribed'' are added because of the restatement. The words ''in his discretion'' are omitted as surplus. The word ''civil'' is added because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The word ''possession'' is substituted for ''other place subject to the jurisdiction'' for consistency in the revised title and with other titles of the United States Code. The words ''or to enforce compliance with the subchapter, regulation, or order'' are substituted for 31:1057(last sentence) and the words ''a mandatory injunction commanding such person to comply with such rule or regulation'' in 31:1143(b)(words before last comma) to eliminate unnecessary words. The words ''and upon a proper showing . . . permanent or'' are omitted as surplus.

§ 5321. Civil penalties

(a)(1) A domestic financial institution or nonfinancial trade or business, and a partner, director, officer, or employee of a domestic financial institution or nonfinancial trade or business, willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except sections 5314 and 5315 of this title or a regulation prescribed under sections 5314 and 5315), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, is liable to the United States Government for a civil penalty of not more than the greater of the amount (not to exceed $100,000) involved in the transaction (if any) or $25,000. For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation

continues and at each office, branch, or place of business at which a violation occurs or continues.

(2) The Secretary of the Treasury may impose an additional civil penalty on a person not filing a report, or filing a report containing a material omission or misstatement, under section 5316 of this title or a regulation prescribed under section 5316. A civil penalty under this paragraph may not be more than the amount of the monetary instrument for which the report was required. A civil penalty under this paragraph is reduced by an amount forfeited under section 5317(b) of this title.

(3) A person not filing a report under a regulation prescribed under section 5315 of this title or not complying with an injunction under section 5320 of this title enjoining a violation of, or enforcing compliance with, section 5315 or a regulation prescribed under section 5315, is liable to the Government for a civil penalty of not more than $10,000.

(4) STRUCTURED TRANSACTION VIOLATION.—

(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates any provision of section 5324.

(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States in connection with the transaction with respect to which such penalty is imposed.

(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

(B) AMOUNT OF PENALTY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

(I) such violation was due to reasonable cause, and

(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

(I) $100,000, or

(II) 50 percent of the amount determined under subparagraph (D), and

(ii) subparagraph (B)(ii) shall not apply.

(D) AMOUNT.—The amount determined under this subparagraph is—

(i) in the case of a violation involving a transaction, the amount of the transaction, or

(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.

(6) NEGLIGENCE.—

(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution or nonfinancial trade or business which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution or nonfinancial trade or business engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than $50,000 on the financial institution or nonfinancial trade or business.

(7) PENALTIES FOR INTERNATIONAL COUNTER MONEY LAUNDERING VIOLATIONS.—The Secretary may impose a civil money penalty in an amount equal to not less than 2 times the amount of the transaction, but not more than $1,000,000, on any financial institution or agency that violates any provision of subsection (i) or (j) of section 5318 or any special measures imposed under section 5318A.

(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

(A) the date the penalty was assessed; or

(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.

(c) The Secretary may remit any part of a forfeiture under subsection (c) or (d)[1] of section 5317 of this title or civil penalty under subsection (a)(2) of this section.

(d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.

[1] So in original. Section 5317 does not contain a subsec. (d).

(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

(3) TERMS AND CONDITIONS.—

(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 999; Pub. L. 98–473, title II, § 901(a), Oct. 12, 1984, 98 Stat. 2135; Pub. L. 99–570, title I, §§ 1356(c)(1), 1357(a)–(f), (h), Oct. 27, 1986, 100 Stat. 3207–24—3207–26; Pub. L. 100–690, title VI, § 6185(g)(2), Nov. 18, 1988, 102 Stat. 4357; Pub. L. 102–550, title XV, §§ 1511(b), 1525(b), 1535(a)(2), 1561(a), Oct. 28, 1992, 106 Stat. 4057, 4065, 4066, 4071; Pub. L. 103–322, title XXXIII, § 330017(a)(1), Sept. 13, 1994, 108 Stat. 2149; Pub. L. 103–325, title IV, §§ 406, 411(b), 413(a)(1), Sept. 23, 1994, 108 Stat. 2247, 2253, 2254; Pub. L. 104–208, div. A, title II, § 2223(3), Sept. 30, 1996, 110 Stat. 3009–415; Pub. L. 107–56, title III, §§ 353(a), 363(a), 365(c)(2)(B)(i), Oct. 26, 2001, 115 Stat. 322, 332, 335; Pub. L. 108–357, title VIII, § 821(a), Oct. 22, 2004, 118 Stat. 1586.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5321(a)(1)	31:1054(b)(last sentence related to civil penalties).	Oct. 26, 1970, Pub. L. 91–508, §§ 205(b)(last sentence related to civil penalties), 207, 233, 234, 84 Stat. 1120, 1123.
	31:1056(a).	
5321(a)(2)	31:1103.	
5321(a)(3)	31:1143(a), (b)(words after last comma).	Sept. 21, 1973, Pub. L. 93–110, § 203(a), (b)(words after last comma), 87 Stat. 353.
5321(b)	31:1056(b).	
5321(c)	31:1104.	

In subsection (a)(1), the words ''or a regulation prescribed under this subchapter'' are added because of the restatement. The words ''(except section 5315 of this title or a regulation prescribed under section 5315)'' are added because 31:1141–1143 was not enacted as a part of the Currency and Foreign Transactions Reporting Act that is restated in this subchapter. The words ''is liable to the United States Government for'' are substituted for ''the Secretary may assess upon'' in 31:1056(a) for consistency in the revised title and with other titles of the United States Code. The words ''the purposes of both civil and criminal penalties for'' in 31:1054(b)(last sentence)(related to civil penalties) are omitted, and the words ''or a regulation prescribed under section 5318(2)'' are added, because of the restatement. The words ''the violation continues'' are added for consistency in the revised title and with other titles of the Code. The word ''separate'' before ''office'' is omitted as surplus.

In subsection (a)(2), the word ''impose'' is substituted for ''assess'' for consistency in the revised title and with other titles of the Code. The word ''additional'' is substituted for 31:1103 (last sentence words before last comma) to eliminate unnecessary words. The words ''or a regulation prescribed under section 5316'' are added because of the restatement. The words ''amount of this'', ''to be filed'', and ''actually'' are omitted as surplus.

Subsection (a)(3) is substituted for 31:1143(a) and (b)(words after last comma) for clarity and consistency and because of the restatement.

In subsection (b), the words ''in the discretion of'', ''in the name of the United States'', and ''of any person'' are omitted as surplus.

In subsection (c), the words ''in his discretion'' and ''upon such terms and conditions as he deems reasonable and just'' are omitted as surplus. The word ''civil'' is added for clarity.

REFERENCES IN TEXT

Sections 3 and 21 of the Federal Deposit Insurance Act, referred to in subsecs. (a)(1) and (e)(1), are classified to sections 1813 and 1829b, respectively, of Title 12, Banks and Banking.

Section 123 of Public Law 91–508, referred to in subsec. (a)(1), is classified to section 1953 of Title 12, Banks and Banking.

AMENDMENTS

2004—Subsec. (a)(5). Pub. L. 108–357 amended heading and text of par. (5) generally, inserting provisions changing the penalties for violating section 5314 of this title and providing a reasonable cause exception.

2001—Subsec. (a)(1). Pub. L. 107–56, §§ 353(a), 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution'' in two places, ''or order issued'' after ''subchapter or a regulation prescribed'', and '', or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''sections 5314 and 5315)''.

Subsec. (a)(6). Pub. L. 107–56, § 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution'' wherever appearing.

Subsec. (a)(7). Pub. L. 107–56, § 363(a), added par. (7).

1996—Subsec. (a)(7). Pub. L. 104–208 struck out par. (7) which read as follows:

''(7) FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.—

''(A) PENALTY AUTHORIZED.—The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

''(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.''

1994—Subsec. (a)(4)(A). Pub. L. 103–325, § 411(b), struck out ''willfully'' before ''violates''.

Subsec. (a)(5)(A). Pub. L. 103–322, § 330017(a)(1) and Pub. L. 103–325, § 413(a)(1), amended subpar. (A) identically, inserting ''any violation of'' after ''causing''.

Subsec. (e). Pub. L. 103–325, § 406, added subsec. (e).

1992—Subsec. (a)(4)(C). Pub. L. 102–550, § 1525(b), struck out ''under section 5317(d)'' after ''forfeiture to the United States''.

Subsec. (a)(5)(A). Pub. L. 102–550, § 1535(a)(2), inserted ''or any person willfully causing'' after ''willfully violates''.

Subsec. (a)(6). Pub. L. 102–550, § 1561(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''NEGLIGENCE.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.''

Subsec. (a)(7). Pub. L. 102–550, § 1511(b), added par. (7).

1988—Subsec. (a)(1). Pub. L. 100–690 inserted ''(if any)'' after ''transaction''.

1986—Subsec. (a)(1). Pub. L. 99–570, §§ 1356(c)(1), 1357(b), substituted ''sections 5314 and 5315'' for ''section 5315'' in two places, substituted ''5318(a)(2)'' for ''5318(2)'' in two places, and substituted ''the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000'' for ''$10,000''.

Subsec. (a)(4). Pub. L. 99–570, § 1357(a), added par. (4).

Subsec. (a)(5). Pub. L. 99–570, § 1357(c), added par. (5).

Subsec. (a)(6). Pub. L. 99–570, § 1357(d), added par. (6).

Subsec. (b). Pub. L. 99–570, § 1357(e), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretary may bring a civil action to recover a civil penalty under subsection (a)(1) or (2) of this section that has not been paid.''

Subsec. (c). Pub. L. 99–570, § 1357(h), substituted ''subsection (c) or (d) of section 5317'' for ''section 5317(b)''.

Subsec. (d). Pub. L. 99–570, § 1357(f), added subsec. (d).

1984—Subsec. (a)(1). Pub. L. 98–473 substituted ''$10,000'' for ''$1,000''.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VIII, § 821(b), Oct. 22, 2004, 118 Stat. 1586, provided that: ''The amendment made by this section [amending this section] shall apply to violations occurring after the date of the enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1561(b) of Pub. L. 102–550 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to violations committed after the date of the enactment of this Act [Oct. 28, 1992].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1357(a) of Pub. L. 99–570, applicable with respect to violations committed after the end of the 3-month period beginning Oct. 27, 1986, see section 1364(b) of Pub. L. 99–570, set out as a note under section 5317 of this title.

Section 1364(c) of Pub. L. 99–570 provided that: ''The amendments made by section 1357 (other than subsection (a) of such section) [amending sections 5321 and 5322 of this title] shall apply with respect to violations committed after the date of the enactment of this Act [Oct. 27, 1986].''

§ 5322. Criminal penalties

(a) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except section 5315 or 5324 of this title or a regulation prescribed under section 5315 or 5324), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, shall be fined not more than $250,000, or imprisoned for not more than five years, or both.

(b) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except section 5315 or 5324 of this title or a regulation prescribed under section 5315 or 5324), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period, shall be fined not more than $500,000, imprisoned for not more than 10 years, or both.

(c) For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(d) A financial institution or agency that violates any provision of subsection (i) or (j) of section 5318, or any special measures imposed under section 5318A, or any regulation prescribed under subsection (i) or (j) of section 5318 or section 5318A, shall be fined in an amount equal to not less than 2 times the amount of the transaction, but not more than $1,000,000.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1000; Pub. L. 98–473, title II, § 901(b), Oct. 12, 1984, 98 Stat. 2135; Pub. L. 99–570, title I, §§ 1356(c)(1), 1357(g), Oct. 27, 1986, 100 Stat. 3207–24, 3207–26; Pub. L. 102–550, title XV, § 1504(d)(2), Oct. 28, 1992, 106 Stat. 4055; Pub. L. 103–325, title IV, § 411(c)(1), Sept. 23, 1994, 108 Stat. 2253; Pub. L. 107–56, title III, §§ 353(b), 363(b), Oct. 26, 2001, 115 Stat. 323, 332.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5322(a)	31:1058.	Oct. 26, 1970, Pub. L. 91–508, §§ 205(b)(last sentence related to criminal penalties), 209, 210, 84 Stat. 1120, 1121.
5322(b)	31:1059.	
5322(c)	31:1054(b)(last sentence related to criminal penalties).	

In subsections (a) and (b), the words ''(except section 5315 of this title or a regulation prescribed under section 5315)'' are added because 31:1141–1143 was not enacted as part of the Currency and Foreign Transactions Reporting Act that is restated in the subchapter.

In subsection (a), the word ''prescribed'' is added for consistency.

In subsection (b), the words ''or a regulation prescribed under this subchapter'' are added because of the restatement. The words ''committed'' and ''the commission of'' are omitted as surplus. The words ''United States'' are substituted for ''Federal'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c), the words ''the purposes of both civil and criminal penalties for'' are omitted because of the restatement. The word ''separate'' before ''office'' is omitted as surplus.

REFERENCES IN TEXT

Section 21 of the Federal Deposit Insurance Act, referred to in subsecs. (a) and (b), is classified to section 1829b of Title 12, Banks and Banking.

Section 123 of Public Law 91–508, referred to in subsecs. (a) and (b), is classified to section 1953 of Title 12, Banks and Banking.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–56, § 353(b)(1), inserted ''or order issued'' after ''willfully violating this subchapter or a regulation prescribed'' and '', or willfully violating a regulation prescribed under section 21 of the