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

in a manner not described in paragraph (1) 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.

(3) Third tier

Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(4) Assessment of penalties

Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) of this section (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

(5) Hearing procedure

Section 1818(h) of this title shall apply to any proceeding under this subsection.

(Pub. L. 95–369, § 16, as added Pub. L. 102–242, title II, § 208, Dec. 19, 1991, 105 Stat. 2295.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a)(1) and (c)(1)(A)(i), (2)(A), see References in Text note set out under section 3101 of this title.

§ 3111. Criminal penalty

Whoever, with the intent to deceive, to gain financially, or to cause financial gain or loss to any person, knowingly violates any provision of this chapter or any regulation or order issued by the appropriate Federal banking agency under this chapter shall be imprisoned not more than 5 years or fined not more than $1,000,000 for each day during which a violation continues, or both.

(Pub. L. 95–369, § 17, as added Pub. L. 102–242, title II, § 213, Dec. 19, 1991, 105 Stat. 2303.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see References in Text note set out under section 3101 of this title.

CHAPTER 33—DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS

Sec.
3201. Definitions.
3202. Dual service of management official as management official of unaffiliated institution or holding company in same area, town, or village prohibited.
3203. Dual service of management official of $2,500,000,000 institution or holding company as management official of unaffiliated $1,500,000,000 institution or holding company prohibited.
3204. Exceptions.
3205. Management official in position prior to November 10, 1978.
(a) Continuation of service.
(b) Depository institution and diversified savings and loan holding company.
3206. Administration and enforcement.
3207. Rules and regulations.
3208. Powers available to Attorney General for enforcement.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1786, 1818, 1823 of this title.

§ 3201. Definitions

As used in this chapter—

(1) the term ''depository institution'' means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

(2) the term ''depository holding company'' means a bank holding company as defined in section 1841(a) of this title, a company which would be a bank holding company as defined in section 1841(a) of this title but for the exemption contained in subsection (a)(5)(F) thereof, or a savings and loan holding company as defined in section 1730a(a)(1)(D)[1] of this title;

(3) the characterization of any corporation (including depository institutions and depository holding companies), as an ''affiliate of,'' or as ''affiliated'' with any other corporation means that—

(A) one of the corporations is a depository holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depository holding company, as the term ''subsidiary'' is defined in either section 1841(d) of this title in the case of a bank holding company or section 1730a(a)(1)(H)[1] of this title in the case of a savings and loan holding company; or

(B) more than 25 percent of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 25 percent of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on November 10, 1978, and the other corporation is a mutual savings bank; or

(D) one of the corporations is a bank, insured by the Federal Deposit Insurance Corporation and chartered under State law, and is a bankers' bank, described in Paragraph Seventh of section 24 of this title; or

(E) one of the corporations is a bank, chartered under State law and insured by the

[1] See References in Text note below.

Federal Deposit Insurance Corporation, the voting securities of which are held only by persons who are officers of other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by such officers of other banks in excess of 6 per centum of the paid-in capital and 6 per centum of the surplus of such a bank.[2]

(4) the term ''management official'' means an employee or officer with management functions, a director (including an advisory or honorary director, except in the case of a depository institution with total assets of less than $100,000,000), a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: *Provided*, That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this chapter, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further*, That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this chapter, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank;

(5) the term ''office'' used with reference to a depository institution means either a principal office or a branch; and

(6) the term ''appropriate Federal depository institutions regulatory agency'' means, with respect to any depository institution or depository holding company, the agency referred to in section 3207 of this title in connection with such institution or company.

(Pub. L. 95–630, title II, § 202, Nov. 10, 1978, 92 Stat. 3672; Pub. L. 100–650, §§ 2, 3, 5(b)(1), Nov. 10, 1988, 102 Stat. 3819, 3820; Pub. L. 103–325, title III, § 322(c)(2), Sept. 23, 1994, 108 Stat. 2227.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3672, known as the Depository Management Interlocks Act, which enacted this chapter, amended sections 1464, 1730, and 1818 of this title, and enacted provisions set out as a note below. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Section 1730a of this title, referred to in pars. (2) and (3)(A), was repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

AMENDMENTS

1994—Par. (3)(D). Pub. L. 103–325 substituted ''and is a bankers' bank, described in Paragraph Seventh of section 24 of this title; or'' for ''the voting securities of which are held by other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by any such other bank in excess of 5 per centum of the paid-in capital and 5 per centum of the surplus of such other bank; or''.

1988—Par. (3)(B). Pub. L. 100–650, § 2, substituted ''25 percent'' for ''50 per centum'' in two places.

Par. (4). Pub. L. 100–650, § 3, substituted ''(including an advisory or honorary director, except in the case of a depository institution with total assets of less than $100,000,000)'' for ''(including an advisory or honorary director)''.

Par. (6). Pub. L. 100–650, § 5(b)(1), added par. (6).

EFFECTIVE DATE

Chapter effective upon the expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95–630, set out as an Effective Date note under section 375b of this title.

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100–650 provided that: ''This Act [amending sections 3201, 3204, and 3205 of this title] may be referred to as the 'Management Interlocks Revision Act of 1988'.''

SHORT TITLE

Section 201 of title II of Pub. L. 95–630 provided that: ''This title [enacting this chapter and amending sections 1464, 1730, and 1818 of this title] may be cited as the 'Depository Institution Management Interlocks Act'.''

§ 3202. Dual service of management official as management official of unaffiliated institution or holding company in same area, town, or village prohibited

A management official of a depository institution or a depository holding company may not serve as a management official of any other depository institution or depository holding company not affiliated therewith if an office of one of the institutions or any depository institution that is an affiliate of such institutions is located within either—

(1) the same primary metropolitan statistical area, the same metropolitan statistical area, or the same consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas as defined by the Office of Management and Budget, except in the case of depository institutions with less than $20,000,000 in assets in which case the provision of paragraph (2) shall apply, as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or

(2) the same city, town, or village as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

[2] So in original. The period probably should be a semicolon.

(Pub. L. 95–630, title II, § 203, Nov. 10, 1978, 92 Stat. 3673; Pub. L. 98–181, title VII, § 701(c), Nov. 30, 1983, 97 Stat. 1267.)

AMENDMENTS

1983—Par. (1). Pub. L. 98–181 substituted ''primary metropolitan statistical area, the same metropolitan statistical area, or the same consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas'' for ''standard metropolitan statistical area''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3204, 3205, 3207 of this title.

§ 3203. Dual service of management official of $2,500,000,000 institution or holding company as management official of unaffiliated $1,500,000,000 institution or holding company prohibited

If a depository institution or a depository holding company has total assets exceeding $2,500,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other nonaffiliated depository institution or depository holding company having total assets exceeding $1,500,000,000 or as a management official of any affiliate of such other institution. In order to allow for inflation or market changes, the appropriate Federal depository institutions regulatory agencies may, by regulation, adjust, as necessary, the amount of total assets required for depository institutions or depository holding companies under this section.

(Pub. L. 95–630, title II, § 204, Nov. 10, 1978, 92 Stat. 3673; Pub. L. 104–208, div. A, title II, § 2210(a), Sept. 30, 1996, 110 Stat. 3009–409.)

AMENDMENTS

1996—Pub. L. 104–208 substituted ''$2,500,000,000'' for ''$1,000,000,000'' and ''$1,500,000,000'' for ''$500,000,000'' and inserted at end ''In order to allow for inflation or market changes, the appropriate Federal depository institutions regulatory agencies may, by regulation, adjust, as necessary, the amount of total assets required for depository institutions or depository holding companies under this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3204, 3205, 3207 of this title.

§ 3204. Exceptions

The prohibitions contained in sections 3202 and 3203 of this title shall not apply in the case of any one or more of the following or subsidiary thereof:

(1) A depository institution or depository holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

(2) A corporation operating under section 25 or 25(a)[1] of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.].

(3) A credit union being served by a management official of another credit union.

(4) A depository institution or depository holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

(5) A State-chartered savings and loan guaranty corporation.

(6) A Federal Home Loan Bank or any other bank organized specifically to serve depository institutions.

(7) A depository institution or a depository holding company which—

(A) is closed or is in danger of closing, as determined by the appropriate Federal depository institutions regulatory agency in accordance with regulations prescribed by such agency; and

(B) is acquired by another depository institution or depository holding company,

during the 5-year period beginning on the date of the acquisition of the depository institution or depository holding company described in subparagraph (A).

(8)(A) A diversified savings and loan holding company (as defined in section 1730a(a)(1)(F) of this title) with respect to the service of a director of such company who is also a director of any nonaffiliated depository institution or depository holding company (including a savings and loan holding company) if—

(i) notice of the proposed dual service is given by such diversified savings and loan holding company to—

(I) the appropriate Federal depository institutions regulatory agency for such company; and

(II) the appropriate Federal depository institutions regulatory agency for the nonaffiliated depository institution or depository holding company of which such person is also a director,

not less than 60 days before such dual service is proposed to begin; and

(ii) the proposed dual service is not disapproved by any such appropriate Federal depository institutions regulatory agency before the end of such 60-day period.

(B) Any appropriate Federal depository institutions regulatory agency may disapprove, under subparagraph (A)(ii), a notice of proposed dual service by any individual if such agency finds that—

(i) the dual service cannot be structured or limited so as to preclude the dual service's resulting in a monopoly or substantial lessening of competition in financial services in any part of the United States;

(ii) the dual service would lead to substantial conflicts of interest or unsafe or unsound practices; or

(iii) the diversified savings and loan holding company has neglected, failed, or refused to furnish all the information required by such agency.

(C) Any appropriate Federal depository institutions regulatory agency may, at any time after the end of the 60-day period referred to in subparagraph (A), require that any dual service by any individual which was not dis-

[1] See References in Text note below.

approved by such agency during such period be terminated if a change in circumstances occurs with respect to any depository institution or depository holding company of which such individual is a director that would have provided a basis for disapproval of the dual service during such period.

(9) Any savings association (as defined in section 10(a)(1)(A) of the Home Owners' Loan Act [12 U.S.C. 1467a(a)(1)(A)] or any savings and loan holding company (as defined in section 10(a)(1)(D) of such Act) which has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of such Act, except that this paragraph shall apply only with respect to service as a single management official of such savings association or holding company, or any subsidiary of such savings association or holding company, by a single management official of the savings and loan holding company which purchased the stock issued in connection with such qualified stock issuance, and shall apply only when the Director of the Office of Thrift Supervision has determined that such service is consistent with the purposes of this chapter and the Home Owners' Loan Act [12 U.S.C. 1461 et seq.].

(Pub. L. 95–630, title II, § 205, Nov. 10, 1978, 92 Stat. 3673; Pub. L. 97–320, title IV, § 425(d), Oct. 15, 1982, 96 Stat. 1524; Pub. L. 100–650, §§ 4, 5(a), Nov. 10, 1988, 102 Stat. 3819; Pub. L. 101–73, title VI, § 604(a), Aug. 9, 1989, 103 Stat. 410.)

REFERENCES IN TEXT

Section 25 of the Federal Reserve Act, referred to in par. (2), is classified to subchapter I (§ 601 et seq.) of chapter 6 of this title. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of this title, was renumbered section 25A of that act by Pub. L. 102–242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

This chapter, referred to in par. (9), was in the original "this Act" and was translated as reading "this title", meaning title II of Pub. L. 95–630, known as the Depository Management Interlocks Act, to reflect the probable intent of Congress.

The Home Owners' Loan Act, referred to in par. (9), is act June 13, 1933, ch. 64, 48 Stat. 128, as amended, which is classified generally to chapter 12 (§ 1461 et seq.) of this title. For complete classification of this Act to the Code, see section 1461 of this title and Tables.

AMENDMENTS

1989—Par. (9). Pub. L. 101–73 added par. (9).

1988—Par. (7). Pub. L. 100–650, § 4, added par. (7).

Par. (8). Pub. L. 100–650, § 5(a), added par. (8).

1982—Par. (2). Pub. L. 97–320 substituted "25(a)" for "25A".

§ 3205. Management official in position prior to November 10, 1978

(a) Continuation of service

A person whose service in a position as a management official began prior to November 10, 1978, and who was not immediately prior to November 10, 1978, in violation of section 19 of title 15 is not prohibited by section 3202 or section 3203 of this title from continuing to serve in that position. The appropriate Federal depository institutions regulatory agency may provide a reasonable period of time for compliance with this chapter, not exceeding fifteen months, after any change in circumstances which makes service described in the preceding sentence prohibited by this chapter, except that a merger, acquisition, increase in total assets, establishment of one or more offices, or change in management responsibilities shall not constitute changes in circumstances which would make such service prohibited by section 3202 or section 3203 of this title.

(b) Depository institution and diversified savings and loan holding company

Effective on November 10, 1978, a person who serves as a management official of a company which is not a depository institution or a depository holding company and as a management official of a depository institution or a depository holding company is not prohibited from continuing to serve as a management official of that depository institution or depository holding company as a result of that company which is not a depository institution or depository holding company becoming a diversified savings and loan holding company as that term is defined in section 1730a(a)[1] of this title.

(Pub. L. 95–630, title II, § 206, Nov. 10, 1978, 92 Stat. 3674; Pub. L. 97–110, title III, § 302, Dec. 26, 1981, 95 Stat. 1515; Pub. L. 100–650, §§ 5(b)(2), 6, Nov. 10, 1988, 102 Stat. 3820, 3821; Pub. L. 103–325, title III, § 338(a), Sept. 23, 1994, 108 Stat. 2235; Pub. L. 104–208, div. A, title II, § 2210(b), Sept. 30, 1996, 110 Stat. 3009–410.)

REFERENCES IN TEXT

Section 1730a of this title, referred to in subsec. (b), was repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–208, § 2210(b)(1), struck out "for a period of, subject to the requirements of subsection (c) of this section, 20 years after November 10, 1978" after "continuing to serve in that position".

Subsec. (b). Pub. L. 104–208, § 2210(b)(2), struck out at end "This subsection shall expire, subject to the requirements of subsection (c) of this section, 20 years after November 10, 1978."

Subsec. (c). Pub. L. 104–208, § 2210(b)(3), struck out subsec. (c) which related to review of existing management interlocks.

1994—Subsecs. (a), (b). Pub. L. 103–325, § 338(a)(1), substituted ", subject to the requirements of subsection (c) of this section, 20 years after November 10, 1978" for "15 years after November 10, 1978".

Subsec. (c). Pub. L. 103–325, § 338(a)(2), added subsec. (c).

1988—Subsec. (a). Pub. L. 100–650, § 5(b)(2), substituted "depository institutions regulatory agency" for "banking agency (as set forth in section 3207 of this title)".

Pub. L. 100–650, § 6, substituted "15 years" for "ten years".

Subsec. (b). Pub. L. 100–650, § 6, substituted "15 years" for "ten years".

1981—Pub. L. 97–110 designated existing provisions as subsec. (a), inserted provision that a merger, acquisition, increase in total assets, establishment of one or more offices, or change in management responsibilities shall not constitute changes in circumstances which would make such service prohibited by section 3202 or 3203 of this title, and added subsec. (b).

[1] See References in Text note below.

§ 3206. Administration and enforcement

This chapter shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Director of the Office of Thrift Supervision with respect to a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and savings and loan holding companies,

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration, and

(6) upon referral by the agencies named in the foregoing paragraphs (1) through (5), the Attorney General shall have the authority to enforce compliance by any person with this chapter.

(Pub. L. 95–630, title II, § 207, Nov. 10, 1978, 92 Stat. 3674; Pub. L. 101–73, title VII, § 744(r), Aug. 9, 1989, 103 Stat. 440.)

AMENDMENTS

1989—Par. (4). Pub. L. 101–73 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies,''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3608 of this title.

§ 3207. Rules and regulations

Regulations to carry out this chapter, including regulations that permit service by a management official that would otherwise be prohibited by section 3202 of this title or section 3203 of this title, if such service would not result in a monopoly or substantial lessening of competition, may be prescribed by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Director of the Office of Thrift Supervision with respect to institutions the accounts of which are insured by the Federal Deposit Insurance Corporation, and savings and loan holding companies, and

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration.

(Pub. L. 95–630, title II, § 209, Nov. 10, 1978, 92 Stat. 3675; Pub. L. 103–325, title III, § 338(b), Sept. 23, 1994, 108 Stat. 2236; Pub. L. 104–208, div. A, title II, § 2210(c), Sept. 30, 1996, 110 Stat. 3009–410.)

AMENDMENTS

1996—Pub. L. 104–208 redesignated subsec. (a) as entire section, in introductory provisions, substituted ''Regulations'' for ''Rules and regulations'' and inserted '', including regulations that permit service by a management official that would otherwise be prohibited by section 3202 of this title or section 3203 of this title, if such service would not result in a monopoly or substantial lessening of competition,'' after ''chapter'', in par. (4), substituted ''Director of the Office of Thrift Supervision'' for ''Federal Home Loan Bank Board'' and ''Federal Deposit Insurance Corporation'' for ''Federal Savings and Loan Insurance Corporation'', and struck out subsecs. (b) and (c), which related to regulatory standards, and to limited exception for management official consignment program, respectively.

1994—Pub. L. 103–325 designated existing provisions as subsec. (a), inserted heading, struck out '', including rules or regulations which permit service by a management official which would otherwise be prohibited by section 3202 or section 3203 of this title,'' after ''Rules and regulations to carry out this chapter'' in introductory provisions, and added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3201 of this title.

§ 3208. Powers available to Attorney General for enforcement

(a) For the purpose of the exercise by the Attorney General of his enforcement functions under section 3206(6) of this title, all of the functions and powers of the Attorney General under the Clayton Act [15 U.S.C. 12 et seq.] are available to the Attorney General, irrespective of any jurisdictional tests in the Clayton Act, including the power to take enforcement actions in the same manner as if the violation had been a violation of the Clayton Act.

(b) All of the functions and powers of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice are available to the Attorney General or to such Assistant Attorney General to investigate possible violations under section 3206(6) of this title in the same manner as if such possible violations were possible violations of the Clayton Act [15 U.S.C. 12 et seq.].

(Pub. L. 95–630, title II, § 210, as added Pub. L. 97–320, title IV, § 426, Oct. 15, 1982, 96 Stat. 1524.)

REFERENCES IN TEXT

The Clayton Act, referred to in text, is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

CHAPTER 34—FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Sec.
3301. Declaration of purpose.