

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (d)(1), (2), (4)(B), (5), (e)(1), (2), and (f)(2), was in the original “this title”, meaning title II of Pub. L. 111-203, July 21, 2010, 124 Stat. 1442, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Section 5390(n)(14) of this title, referred to in subsec. (d)(1)(C), probably means section 5390(n)(9), because section 5390(n) of this title does not contain a par. (14) and section 5390(n)(9) of this title relates to orderly liquidation plans.

CODIFICATION

Section is comprised of section 211 of Pub. L. 111-203. Subsecs. (a) to (c) of section 211 of Pub. L. 111-203 amended section 4403 of this title and section 1032 of title 18, Crimes and Criminal Procedure.

AMENDMENTS

2022—Subsec. (d)(3). Pub. L. 117-286, §4(b)(36)(A), substituted “section 405(b) of title 5,” for “section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.),”.

Subsec. (e)(3). Pub. L. 117-286, §4(b)(36)(B), substituted “section 405(b) of title 5,” for “section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.),”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

§ 5392. Prohibition of circumvention and prevention of conflicts of interest**(a) No other funding**

Funds for the orderly liquidation of any covered financial company under this subchapter shall only be provided as specified under this subchapter.

(b) Limit on governmental actions

No governmental entity may take any action to circumvent the purposes of this subchapter.

(c) Conflict of interest

In the event that the Corporation is appointed receiver for more than 1 covered financial company or is appointed receiver for a covered financial company and receiver for any insured depository institution that is an affiliate of such covered financial company, the Corporation shall take appropriate action, as necessary to avoid any conflicts of interest that may arise in connection with multiple receiverships.

(Pub. L. 111-203, title II, §212, July 21, 2010, 124 Stat. 1516.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (b), was in the original “this title”, meaning title II of Pub. L. 111-203, July 21, 2010, 124 Stat. 1442, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of this title.

§ 5393. Ban on certain activities by senior executives and directors**(a) Prohibition authority**

The Board of Governors or, if the covered financial company was not supervised by the Board of Governors, the Corporation, may exercise the authority provided by this section.

(b) Authority to issue order

The appropriate agency described in subsection (a) may take any action authorized by subsection (c), if the agency determines that—

(1) a senior executive or a director of the covered financial company, prior to the appointment of the Corporation as receiver, has, directly or indirectly—

(A) violated—

(i) any law or regulation;

(ii) any cease-and-desist order which has become final;

(iii) any condition imposed in writing by a Federal agency in connection with any action on any application, notice, or request by such company or senior executive; or

(iv) any written agreement between such company and such agency;

(B) engaged or participated in any unsafe or unsound practice in connection with any financial company; or

(C) committed or engaged in any act, omission, or practice which constitutes a breach of the fiduciary duty of such senior executive or director;

(2) by reason of the violation, practice, or breach described in any subparagraph of paragraph (1), such senior executive or director has received financial gain or other benefit by reason of such violation, practice, or breach and such violation, practice, or breach contributed to the failure of the company; and

(3) such violation, practice, or breach—

(A) involves personal dishonesty on the part of such senior executive or director; or

(B) demonstrates willful or continuing disregard by such senior executive or director for the safety or soundness of such company.

(c) Authorized actions**(1) In general**

The appropriate agency for a financial company, as described in subsection (a), may serve upon a senior executive or director described in subsection (b) a written notice of the intention of the agency to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any financial company for a period of time determined by the appropriate agency to be commensurate with such violation, practice, or breach, provided such period shall be not less than 2 years.

(2) Procedures

The due process requirements and other procedures under section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) shall apply to actions under this section as if the covered financial company were an insured depository institution and the senior executive

or director were an institution-affiliated party, as those terms are defined in that Act [12 U.S.C. 1811 et seq.].

(d) Regulations

The Corporation and the Board of Governors, in consultation with the Council, shall jointly prescribe rules or regulations to administer and carry out this section, including rules, regulations, or guidelines to further define the term senior executive for the purposes of this section.

(Pub. L. 111–203, title II, §213, July 21, 2010, 124 Stat. 1517.)

Editorial Notes

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (c)(2), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. The terms “insured depository institution” and “institution-affiliated party” are defined in section 3 of the Act, which is classified to section 1813 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

§ 5394. Prohibition on taxpayer funding

(a) Liquidation required

All financial companies put into receivership under this subchapter shall be liquidated. No taxpayer funds shall be used to prevent the liquidation of any financial company under this subchapter.

(b) Recovery of funds

All funds expended in the liquidation of a financial company under this subchapter shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.

(c) No losses to taxpayers

Taxpayers shall bear no losses from the exercise of any authority under this subchapter.

(Pub. L. 111–203, title II, §214, July 21, 2010, 124 Stat. 1518.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 111–203, July 21, 2010, 124 Stat. 1442, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

SUBCHAPTER III—TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS

§ 5401. Purposes

The purposes of this title¹ are—

(1) to provide for the safe and sound operation of the banking system of the United States;

(2) to preserve and protect the dual system of Federal and State-chartered depository institutions;

(3) to ensure the fair and appropriate supervision of each depository institution, regardless of the size or type of charter of the depository institution; and

(4) to streamline and rationalize the supervision of depository institutions and the holding companies of depository institutions.

(Pub. L. 111–203, title III, §301, July 21, 2010, 124 Stat. 1520.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in text, is title III of Pub. L. 111–203, July 21, 2010, 124 Stat. 1520, known as the Enhancing Financial Institution Safety and Soundness Act of 2010, which enacted this subchapter and sections 4b and 16 of this title, amended sections 1, 11, 248, 461, 481, 482, 1438, 1462, 1462a, 1463, to 1464, 1466a, 1467, 1467a, 1468, 1468a, to 1468b, 1470, 1701c, 1701p–1, 1708, 1757, 1785, 1786, 1787, 1812, 1813, 1817, 1818, 1820, 1821, 1823, 1828, 1829, 1831e, 1831j, 1833b, 1833e, 1834, 1841, 1843, 1844, 1861, 1867, 1881, 1882, 1884, 1972, 2709, 2902, 2905, 3206 to 3208, 3332, 4515, and 4517 of this title, section 906 of Title 2, The Congress, sections 78c, 78l, 78o–5, and 78w of Title 15, Commerce and Trade, sections 212, 657, 981, 982, 1006, 1014, and 1032 of Title 18, Crimes and Criminal Procedure, sections 321 and 714 of Title 31, Money and Finance, section 41501 of Title 34, Crime Control and Law Enforcement, sections 4003 and 8105 of Title 42, The Public Health and Welfare, and section 3502 of Title 44, Public Printing and Documents, repealed section 1441a of this title, enacted provisions set out as notes under sections 1, 16, 1438, 1787, 1812, 1817, and 1821 of this title and section 906 of Title 2, and amended provisions set out as notes under sections 1437, 1463, 1464, 1467a, 1707, 1812, and 1818 of this title. For complete classification of title III to the Code, see Short title note set out under section 5301 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

§ 5402. Definition

In this title,¹ the term “transferred employee” means, as the context requires, an employee transferred to the Office of the Comptroller of the Currency or the Corporation under section 5432 of this title.

(Pub. L. 111–203, title III, §302, July 21, 2010, 124 Stat. 1520.)

¹ See References in Text note below.

¹ See References in Text note below.