

Editorial Notes**CODIFICATION**

R.S. §5192 derived from act June 3, 1864, ch. 106, §31, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1959—Pub. L. 86-114 struck out “central reserve or” before “reserve cities”.

Pub. L. 86-70 struck out “in Alaska or” before “in a dependency”.

1952—Act July 1, 1952, reduced the required amount of cash on hand from two-fifths to one-fifth of the required reserve of 15 per centum.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1959 AMENDMENT**

Amendment by Pub. L. 86-114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86-114, set out as a Central Reserve and Reserve Cities note under former section 141 of this title.

Executive Documents**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.

§§ 145, 146. Repealed. Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068

Section 145, act July 14, 1890, ch. 708, §2, 26 Stat. 289, authorized counting of treasury notes held by national banking associations as part of their lawful reserve.

Section 146, act July 12, 1882, ch. 290, §12, 22 Stat. 165, related to holding of gold and silver certificates by national banking associations.

SUBCHAPTER IX—FORMATION OF ASSOCIATIONS TO ISSUE GOLD NOTES**§§ 151 to 153. Repealed. Pub. L. 103-325, title VI, § 602(e)(22), (23), (f)(7), Sept. 23, 1994, 108 Stat. 2292, 2293**

Section 151, R.S. §5185; Jan. 19, 1875, ch. 19, 18 Stat. 302, related to organization of associations to issue gold notes.

Section 152, R.S. §5186, related to mandatory establishment of lawful money reserves by associations issuing gold notes and reception by such associations of gold notes of other associations in payment of debts.

Section 153, act Feb. 14, 1880, ch. 25, 21 Stat. 66, related to conversion of gold banks into currency banks.

SUBCHAPTER X—BANK EXAMINATIONS; REPORTS**§ 161. Reports to Comptroller of the Currency****(a) Reports of condition; form; contents; date of making; publication**

Every association shall make reports of condition to the Comptroller of the Currency in accordance with the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]. The Comptroller of the Currency may call for additional reports of condition, in such form and containing such information as he may prescribe, on dates to be fixed by him, and may call for special reports from any particular association whenever in his judgment the same are necessary for his use in the performance of his supervisory duties. Each

report of condition shall contain a declaration by the president, a vice president, the cashier, or by any other officer designated by the board of directors of the bank to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the bank other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct. Each report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day specified by the Comptroller, and shall be transmitted to the Comptroller within the period of time specified by the Comptroller. Special reports called for by the Comptroller need contain only such information as is specified by the Comptroller in his request therefor, and publication of such reports need be made only if directed by the Comptroller.

(b) Payment of dividends

Every association shall make to the Comptroller reports of the payment of dividends, including advance reports of dividends proposed to be declared or paid in such cases and under such conditions as the Comptroller deems necessary to carry out the purposes of the laws relating to national banking associations in such form and at such times as he may require.

(c) Reports of affiliates; form; contents; date of making; publication; penalties

Each national banking association shall obtain from each of its affiliates other than member banks and furnish to the Comptroller of the Currency not less than four reports during each year, in such form as the Comptroller may prescribe, verified by the oath or affirmation of the president or such other officer as may be designated by the board of directors of such affiliate to verify such reports, disclosing the information hereinafter provided for as of dates identical with those for which the Comptroller shall during such year require the reports of the condition of the association. Each such report of an affiliate shall be transmitted to the Comptroller at the same time as the corresponding report of the association, except that the Comptroller may, in his discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the Comptroller of the Currency shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the Comptroller to inform himself as to the effect of such relations upon the affairs of such bank. The Comptroller shall also have power to call for additional reports with respect to any such affiliate whenever in his judgment the same are necessary in order to obtain a full and complete knowledge of the conditions of the association with which it is affiliated. Such additional reports shall be transmitted to the Comptroller of the Currency in such form as he may prescribe.

(R.S. §5211; Feb. 27, 1877, ch. 69, §1, 19 Stat. 252; Dec. 28, 1922, ch. 18, 42 Stat. 1067; Feb. 25, 1927, ch. 191, §13, 44 Stat. 1232; June 16, 1933, ch. 89,

§ 27, 48 Stat. 191; Pub. L. 86-230, §§ 11, 22(b), Sept. 8, 1959, 73 Stat. 458, 466; Pub. L. 86-671, § 5, July 14, 1960, 74 Stat. 551; Pub. L. 89-485, § 13(d), July 1, 1966, 80 Stat. 243; Pub. L. 101-73, title IX, § 911(b)(1), Aug. 9, 1989, 103 Stat. 478; Pub. L. 103-325, title III, § 308(a), Sept. 23, 1994, 108 Stat. 2218.)

Editorial Notes

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, which is classified generally to chapter 16 (§ 1811 et seq.) 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.

CODIFICATION

R.S. § 5211 derived from act June 3, 1864, ch. 106, § 34, 13 Stat. 109, which was the National Bank Act, and act Mar. 3, 1869, ch. 130, § 1, 15 Stat. 326. See section 38 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-325, § 308(a)(1), struck out before period at end of fifth sentence “; and the statement of resources and liabilities in the same form in which it is made to the Comptroller shall be published in a newspaper published in the place where such association is established, or if there is no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the association, and such proof of publication shall be furnished as may be required by the Comptroller”.

Subsec. (c). Pub. L. 103-325, § 308(a)(2), struck out after third sentence “The reports of such affiliates shall be published by the association under the same conditions as govern its own condition reports.”

1989—Subsec. (a). Pub. L. 101-73, § 911(b)(1)(A), in fifth sentence substituted “within the period of time specified by the Comptroller” for “within ten days after the receipt of a request therefor from him”.

Subsec. (c). Pub. L. 101-73, § 911(b)(1)(B), struck out at end “Any such affiliated bank which fails to obtain and furnish any report required under this section shall be subject to a penalty of \$100 for each day during which such failure continues.”

1966—Subsec. (c). Pub. L. 89-485 struck out second sentence stating that the term “affiliate” shall include holding company affiliates as well as other affiliates.

1960—Subsec. (a). Pub. L. 86-671, § 5(a), designated existing provisions of former first par. as subsec. (a), substituted provisions relating to the making of reports of condition in accordance with the Federal Deposit Insurance Act and additional reports of condition containing declaration of officer for former provisions requiring minimum of three reports annually verified by an officer, inserted provisions respecting contents and publication of special reports and deleted requirement for making reports of payment of dividends, which is incorporated in subsec. (b) of this section.

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 commis-

sioned 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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-73, title IX, § 911(i), Aug. 9, 1989, 103 Stat. 482, 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.

Executive Documents

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.

Statutory Notes and Related Subsidiaries

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) 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), if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (b) 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) 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 subsection¹ 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.)

Editorial Notes

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 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.”

¹ So in original. Probably should be “section”.

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

Statutory Notes and Related Subsidiaries

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.

Executive Documents

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

Editorial Notes

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-