

Editorial Notes

REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (c)(1)(B), (2), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Servicemembers Civil Relief Act, referred to in subsec. (e)(2), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, which is classified generally to chapter 50 (§3901 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 3901 of Title 50 and Tables.

AMENDMENTS

2016—Subsec. (e)(2). Pub. L. 114-328, §1081(b)(2)(A)(i), inserted “(50 U.S.C. 3901 et seq.)” before semicolon at end.

Subsec. (g). Pub. L. 114-328, §1081(b)(2)(A)(ii), substituted “(50 U.S.C. 3937)” for “(50 U.S.C. App. 527)”.

2013—Subsec. (d)(2)(A). Pub. L. 112-239, §661(a)(1), inserted “any consumer credit or” before “loans”.

Subsec. (d)(2)(B). Pub. L. 112-239, §661(a)(2), inserted “covering consumer credit” after “State consumer lending protections”.

Subsec. (f)(5), (6). Pub. L. 112-239, §662(a), (b), added pars. (5) and (6).

Subsec. (h)(3). Pub. L. 112-239, §661(b)(1), inserted “and not less often than once every two years thereafter,” after “under this subsection,” in introductory provisions.

Subsec. (h)(3)(E). Pub. L. 112-239, §661(b)(2), added subpar. (E) and struck out former subpar. (E) which read as follows: “The Office of Thrift Supervision.”

Subsec. (i)(2). Pub. L. 112-239, §663, amended par. (2) generally. Prior to amendment, par. (2) defined the term “dependent”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title VI, §661(c), Jan. 2, 2013, 126 Stat. 1785, provided that:

“(1) MODIFICATION OF REGULATIONS.—The Secretary of Defense shall modify the regulations prescribed under subsection (h) of section 987 of title 10, United States Code, to take into account the amendments made by subsection (a) [amending this section].

“(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on—

“(A) the date that is one year after the date of the enactment of this Act [Jan. 2, 2013]; or

“(B) such earlier date as the Secretary shall specify in the modification of regulations required by paragraph (1).

“(3) PUBLICATION OF EARLIER DATE.—If the Secretary specifies an earlier effective date for the amendments made by subsection (a) pursuant to paragraph (2)(B), the Secretary shall publish notice of such earlier effective date in the Federal Register not later than 90 days before such earlier effective date.”

Pub. L. 112-239, div. A, title VI, §662(c), Jan. 2, 2013, 126 Stat. 1786, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to consumer credit extended on or after the date of the enactment of this Act [Jan. 2, 2013].”

EFFECTIVE DATE

Pub. L. 109-364, div. A, title VI, §670(c), Oct. 17, 2006, 120 Stat. 2269, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), section 987 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2007, or on such earlier date as may be prescribed by the Secretary of Defense, and shall apply with respect to extensions of consumer credit on or after such effective date.

“(2) AUTHORITY TO PRESCRIBE REGULATIONS.—Subsection (h) of such section shall take effect on the date of the enactment of this Act [Oct. 17, 2006].

“(3) PUBLICATION OF EARLIER EFFECTIVE DATE.—If the Secretary of Defense prescribes an effective date for section 987 of title 10, United States Code, as added by subsection (a), earlier than October 1, 2007, the Secretary shall publish that date in the Federal Register. Such publication shall be made not less than 90 days before that earlier effective date.”

MEETINGS WITH PRIVATE SECTOR USERS OF SYSTEMS

Pub. L. 114-92, div. A, title V, §594(b)(3), Nov. 25, 2015, 129 Stat. 834, provided that: “The Director of the Defense Manpower Data Center shall meet regularly with private sector users of Defense Manpower Data Center systems used to identify covered borrowers and covered policyholders under military consumer protection laws to learn about issues facing such users and to develop ways of addressing such issues. The first meeting pursuant to this requirement shall take place with [within] three months after the date of the enactment of this Act [Nov. 25, 2015].”

INTERIM REGULATIONS

Pub. L. 109-364, div. A, title VI, §670(d), Oct. 17, 2006, 120 Stat. 2269, provided for the prescription of interim regulations to carry out this section, with interim rules not superseded by final rules expiring no later than 270 days after the effective date of this section (see Effective Date note above).

§ 988. Prohibition on ownership or trading of stocks in certain companies by certain officials of the Department of Defense

(a) PROHIBITION.—Except as provided in subsection (b), a covered official of the Department of Defense may not own or purchase publicly traded stock of a company if that company is one of the 10 entities awarded the most amount of contract funds by the Department of Defense in a fiscal year during the five preceding fiscal years.

(b) EXCEPTIONS.—This section shall not apply to the purchase or ownership of a publicly traded stock of a company otherwise described in subsection (a) as follows:

(1) If the aggregate market value of the holdings of the covered official, and the spouse and minor children of the covered official, in the stock of that company, both before and after purchase (in the case of a purchase), does not exceed the de minimis threshold established in section 2640.202(a)(2) of title 5, Code of Federal Regulations.

(2) If the stock is purchased and owned as part of an Excepted Investment Fund or mutual fund.

(c) DEFINITIONS.—In this section:

(1) The term “covered official of the Department of Defense” means any of the following:

(A) A civilian appointed to a position in the Department of Defense by the President, by and with the advice and consent of the Senate.

(B) If serving in a key acquisition position (as designated by the Secretary of Defense or the Secretary concerned for purposes of this section), the following:

(i) A member of the armed forces in a grade above O-6.

(ii) A civilian officer or employee in a Senior Executive Service, Senior-Level, or Scientific or Professional position.

(2) The term “Excepted Investment Fund” means a widely-held investment fund described in section 102(f)(8) of the Ethics in Government Act of 1978 (5 U.S.C. App.).¹

(Added Pub. L. 116-92, div. A, title IX, §921(a), Dec. 20, 2019, 133 Stat. 1560.)

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REFERENCES IN TEXT

Section 102(f)(8) of the Ethics in Government Act of 1978, referred to in subsec. (c)(2), is section 102(f)(8) of Pub. L. 95-521, which was set out in the Appendix to Title 5, Government Organization and Employees, and was repealed and restated as section 13104(f)(8) of Title 5 by Pub. L. 117-286, §§3(c), (7), Dec. 27, 2022, 136 Stat. 4284, 4361.

§ 989. Prohibition on former members of the armed forces accepting post-service employment with certain foreign governments

(a) IN GENERAL.—Except as provided by subsection (b), a covered individual may not occupy a covered post-service position.

(b) TEMPORARY WAIVER.—

(1) IN GENERAL.—The Secretary of Defense shall establish a process under which a covered individual may be granted a temporary waiver of the prohibition under subsection (a) if—

(A) the individual, or a Federal agency on behalf of, and with the consent of, the individual, submits to the Secretary a written application for a waiver in such form and manner as the Secretary determines appropriate; and

(B) the Secretary determines that the waiver is necessary to advance the national security interests of the United States.

(2) PERIOD OF WAIVER.—A waiver issued under paragraph (1) shall apply for a period not exceeding 5 years. The Secretary may renew such a waiver.

(3) REVOCATION.—The Secretary may revoke a waiver issued under paragraph (1) to a covered individual with respect to a covered-post service position if the Secretary determines that the employment of the individual in the covered-post service position poses a threat to national security.

(4) NOTIFICATION.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary issues a waiver under paragraph (1) or revokes a waiver under paragraph (3), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives written notification of the waiver or revocation, as the case may be.

(B) ELEMENTS.—A notification required by subparagraph (A) shall include the following:

(i) With respect to a waiver issued to a covered individual—

(I) the details of the application, including the position held by the individual in the armed forces;

(II) the nature of the post-service position of the individual;

(III) a description of the national security interests that will be advanced by reason of issuing such a waiver; and

(IV) the specific reasons why the Secretary determines that issuing the waiver will advance such interests.

(ii) With respect to a revocation of a waiver issued to a covered individual—

(I) the details of the waiver, including any renewals of the waiver, and the dates of such waiver and renewals; and

(II) the specific reasons why the Secretary determined that the revocation is warranted.

(c) CERTIFICATION OF PROHIBITION.—In implementing the prohibition under subsection (a), the Secretary shall establish a process under which each member of the armed forces is, before the member retires or is otherwise separated from the armed forces—

(1) informed in writing of the prohibition, and the penalties for violations of the prohibition; and

(2) required to certify that the member understands the prohibition and those penalties.

(d) PENALTIES.—In the case of a covered individual who knowingly and willfully fails to comply with the prohibition under subsection (a), the Secretary may, as applicable—

(1) withhold any pay, allowances, or benefits that would otherwise be provided to the individual by the Department of Defense; and

(2) revoke any security clearance of the individual.

(e) ANNUAL REPORTS.—

(1) REQUIREMENT.—Not later than March 31, 2024, and annually thereafter, the Secretary shall submit to the congressional defense committees a report on covered post-service employment occurring during the year covered by the report.

(2) ELEMENTS.—Each report required by paragraph (1) shall include the following:

(A) The number of former covered individuals who occupy a covered post-service position, broken down by—

(i) the name of the employer;

(ii) the foreign government, including by the specific foreign individual, agency, or entity, for whom the covered post-service employment is being performed; and

(iii) the nature of the services provided as part of the covered post-service employment.

(B) An assessment by the Secretary of whether—

(i) the Department of Defense maintains adequate systems and processes for ensuring that former members of the armed forces are submitting required reports relating to their employment by foreign governments;

(ii) all covered individuals who occupy a covered post-service position are in compliance with this section;

(iii) the services provided by the covered individuals who occupy a covered post-service position pose a current or future threat to the national security of the United States; and

¹ See References in Text note below.