

such violation continues: *Provided*, That the Board may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection. The penalty may be assessed and collected by the Board by written notice. As used in the section, the term ‘violates’ includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

“(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

“(3) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The agency determination shall be made by final order which may be reviewed only as provided in section 1848 of this title. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

“(4) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Board, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

“(5) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

“(6) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.”

Subsec. (c). Pub. L. 101-73, §905(i), added subsec. (c).

Subsec. (d). Pub. L. 101-73, §911(e), added subsec. (d). 1982—Subsec. (b)(1). Pub. L. 97-320 inserted proviso giving the Board discretionary authority to compromise, etc., any civil money penalty imposed under this subsection, and substituted “may be assessed” for “shall be assessed”.

1978—Pub. L. 95-630 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 907(j) of Pub. L. 101-73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101-73, set out as a note under section 93 of this title.

Amendment by section 911(e) of 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.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630, relating to imposition of civil penalties, applicable to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95-630, set out as a note under section 93 of this title.

§ 1848. Judicial review

Any party aggrieved by an order of the Board under this chapter may obtain a review of such

order in the United States Court of Appeals within any circuit wherein such party has its principal place of business or in the Court of Appeals in the District of Columbia, by filing in the court, within thirty days after the entry of the Board’s order, a petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have the jurisdiction to affirm, set aside, or modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper. The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive.

(May 9, 1956, ch. 240, §9, 70 Stat. 138; Pub. L. 85-791, §34, Aug. 28, 1958, 72 Stat. 951; Pub. L. 89-485, §10, July 1, 1966, 80 Stat. 240.)

Editorial Notes

AMENDMENTS

1966—Pub. L. 89-485 reduced from 60 to 30 days the period allowed for the filing of a petition to obtain judicial review of a Board order.

1958—Pub. L. 85-791 substituted, in second sentence, “transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28” for “served upon the Board, and thereupon the Board shall certify and file in the court a transcript of the record made before the Board”, and in third sentence, “such petition” for “the transcript”.

§ 1848a. Repealed. Pub. L. 111-203, title VI, § 604(c)(2), July 21, 2010, 124 Stat. 1601

Section, act May 9, 1956, ch. 240, §10A, as added Pub. L. 106-102, title I, §113, Nov. 12, 1999, 113 Stat. 1368, related to limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective on the transfer date, see section 604(j) of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 1462 of this title.

§ 1849. Saving provision

(a) General rule

Nothing herein contained shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any prohibited antitrust or monopolistic act, action, or conduct, except as specifically provided in this section.

(b) Antitrust review

(1) In general

The Board shall immediately notify the Attorney General of any approval by it pursuant to section 1842 of this title of a proposed acquisition, merger, or consolidation transaction and, if the transaction also involves an acqui-