

laration, that the report is true and correct to the best of such officer's knowledge and belief.

(b) Capital distributions

The Director may require a regulated entity to submit a report to the Director after the declaration of any capital distribution by the regulated entity and before making the capital distribution. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.

(c) Penalties for failure to make reports

(1) Violations

It shall be a violation of this section for any regulated entity—

(A) to fail to make, transmit, or publish any report or obtain any information required by the Director under this section, section 1723a(k) of this title, section 1456(c) of this title, or section 1440 of this title, within the period of time specified in such provision of law or otherwise by the Director; or

(B) to submit or publish any false or misleading report or information under this section.

(2) Penalties

(A) First tier

(i) In general

A violation described in paragraph (1) shall be subject to a penalty of not more than \$2,000 for each day during which such violation continues, in any case in which—

(I) the subject regulated entity maintains procedures reasonably adapted to avoid any inadvertent error and the violation was unintentional and a result of such an error; or

(II) the violation was an inadvertent transmittal or publication of any report which was minimally late.

(ii) Burden of proof

For purposes of this subparagraph, the regulated entity shall have the burden of proving that the error was inadvertent or that a report was inadvertently transmitted or published late.

(B) Second tier

A violation described in paragraph (1) shall be subject to a penalty of not more than \$20,000 for each day during which such violation continues or such false or misleading information is not corrected, in any case that is not addressed in subparagraph (A) or (C).

(C) Third tier

A violation described in paragraph (1) shall be subject to a penalty of not more than \$1,000,000 per day for each day during which such violation continues or such false or misleading information is not corrected, in any case in which the subject regulated entity committed such violation knowingly or with reckless disregard for the accuracy of any such information or report.

(3) Assessments

Any penalty imposed under this subsection shall be in lieu of a penalty under section 4636

of this title, but shall be assessed and collected by the Director in the manner provided in section 4636 of this title for penalties imposed under that section, and any such assessment (including the determination of the amount of the penalty) shall be otherwise subject to the provisions of section 4636 of this title.

(4) Hearing

A regulated entity against which a penalty is assessed under this section shall be afforded an agency hearing if the regulated entity submits a request for a hearing not later than 20 days after the date of the issuance of the notice of assessment. Section 4634 of this title shall apply to any such proceedings.

(Pub. L. 102-550, title XIII, § 1314, Oct. 28, 1992, 106 Stat. 3946; Pub. L. 110-289, div. A, title I, § 1104(a), July 30, 2008, 122 Stat. 2666.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original "this title", meaning title XIII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to this chapter. For complete classification of title XIII to the Code, see Short Title note set out under section 4501 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110-289, § 1104(a)(1), substituted "regulated entities" for "enterprises" in section catchline.

Subsec. (a). Pub. L. 110-289, § 1104(a)(4)(A), substituted "Regular and special reports" for "Special reports and reports of financial condition" in subsec. heading, "Regular reports" for "Financial condition" in par. (1) heading, and "The Director may require, by general or specific orders, a regulated entity to submit regular reports, including financial statements determined on a fair value basis, on the condition (including financial condition), management, activities, or operations of the regulated entity, as the Director considers appropriate" for "The Director may require an enterprise to submit reports of financial condition and operations" in par. (1).

Subsec. (a)(2). Pub. L. 110-289, § 1104(a)(4)(B), inserted ", by general or specific orders," after "may also require" and substituted "on any of the topics specified in paragraph (1) or any other relevant topics, if" for "whenever".

Pub. L. 110-289, § 1104(a)(2), substituted "a regulated entity" for "an enterprise".

Subsec. (a)(3), (4). Pub. L. 110-289, § 1104(a)(3), which directed amendment of this section by substituting "the regulated entity" for "the enterprise", was executed by making the substitution wherever appearing to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 110-289, § 1104(a)(3), which directed amendment of this section by substituting "the regulated entity" for "the enterprise", was executed by making the substitution wherever appearing to reflect the probable intent of Congress.

Pub. L. 110-289, § 1104(a)(2), substituted "a regulated entity" for "an enterprise".

Subsec. (c). Pub. L. 110-289, § 1104(a)(5), added subsec. (c).

§ 4514a. Study and reports on guarantee fees

(a) Ongoing study of fees

The Director shall conduct an ongoing study of fees charged by enterprises for guaranteeing a mortgage.

(b) Collection of data

The Director shall, by regulation or order, establish procedures for the collection of data

from enterprises for purposes of this subsection,¹ including the format and the process for collection of such data.

(c) Reports to Congress

The Director shall annually submit a report to Congress on the results of the study conducted under subsection (a), based on the aggregated data collected under subsection (a) for the subject year, regarding the amount of such fees and the criteria used by the enterprises to determine such fees.

(d) Contents of reports

The reports required under subsection (c) shall identify and analyze—

- (1) the factors considered in determining the amount of the guarantee fees charged;
- (2) the total revenue earned by the enterprises from guarantee fees;
- (3) the total costs incurred by the enterprises for providing guarantees;
- (4) the average guarantee fee charged by the enterprises;
- (5) an analysis of any increase or decrease in guarantee fees from the preceding year;
- (6) a breakdown of the revenue and costs associated with providing guarantees, based on product type and risk classifications; and
- (7) a breakdown of guarantee fees charged based on asset size of the originator and the number of loans sold or transferred to an enterprise.

(e) Protection of information

Nothing in this section may be construed to require or authorize the Director to publicly disclose information that is confidential or proprietary.

(Pub. L. 110-289, div. A, title VI, §1601, July 30, 2008, 122 Stat. 2824.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Federal Housing Finance Regulatory Reform Act of 2008, and also as part of the Housing and Economic Recovery Act of 2008, and not as part of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of terms used in this section, see section 1002(b) of Pub. L. 110-289, set out as a note under section 4511 of this title.

§ 4515. Personnel

(a) In general

Subject to title III of the Federal Housing Finance Regulatory Reform Act of 2008, the Director may appoint and fix the compensation of such officers and employees of the Agency as the Director considers necessary to carry out the functions of the Director and the Agency. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates.

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

(b) Comparability of compensation with Federal banking agencies

In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

(c) Personnel of other Federal agencies

In carrying out the duties of the Agency, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) Outside experts and consultants

Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Agency.

(Pub. L. 102-550, title XIII, §1315, Oct. 28, 1992, 106 Stat. 3947; Pub. L. 110-289, div. A, title I, §1161(a)(1), July 30, 2008, 122 Stat. 2778; Pub. L. 111-203, title III, §365(1), July 21, 2010, 124 Stat. 1555.)

Editorial Notes

REFERENCES IN TEXT

The Federal Housing Finance Regulatory Reform Act of 2008, referred to in subsec. (a), is div. A of Pub. L. 110-289, July 30, 2008, 122 Stat. 2659. Title III of div. A of the Pub. L. 110-289 is set out as a note under section 4511 of this title. For complete classification of Pub. L. 110-289 to the Code, see Short Title note under section 4501 of this title and Tables.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111-203 substituted “and the Federal Deposit Insurance Corporation.” for “the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision.”

2008—Subsec. (a). Pub. L. 110-289, §1161(a)(1)(A), substituted “In General” for “Office personnel” in heading, “Subject to title III of the Federal Housing Finance Regulatory Reform Act of 2008, the” for “The”, and “the Agency” for “the Office” in two places.

Subsec. (c). Pub. L. 110-289, §1161(a)(1)(B), substituted “the Agency” for “the Office”.

Subsec. (d). Pub. L. 110-289, §1161(a)(1)(D), redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.”

Subsec. (e). Pub. L. 110-289, §1161(a)(1)(C), (D), substituted “the Agency” for “the Office” and redesignated subsec. (e) as (d).

Subsec. (f). Pub. L. 110-289, §1161(a)(1)(E), struck out subsec. (f). Text read as follows: “Not later than the expiration of the 180-day period beginning upon the appointment of the Director under section 4512 of this title, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

“(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and