

(2) knowingly or recklessly causes a substantial loss to such credit union<sup>2</sup> or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

**(d) Maximum amounts of penalties for any violation described in subsection (c)**

The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

(1) in the case of any person other than a member bank, an amount not to exceed \$1,000,000; and

(2) in the case of a member bank, an amount not to exceed the lesser of—

(A) \$1,000,000; or

(B) 1 percent of the total assets of such member bank.

**(e) Assessment; etc.**

Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected<sup>3</sup> by

(1) in the case of a national bank, by the Comptroller of the Currency; and

(2) in the case of a State member bank, by the Board,

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 shall be subject to the provisions of such section.

**(f) Hearing**

The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person 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.

**(g) Disbursement**

All penalties collected under authority of this paragraph shall be deposited into the Treasury.

**(h) "Violate" defined**

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

**(i) Regulations**

The Comptroller of the Currency and the Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

**(m)<sup>4</sup> Notice under this section after separation from service**

The resignation, termination of employment or participation, or separation of an institution-

affiliated party (within the meaning of section 1813(u) of this title) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after August 9, 1989).

(Dec. 23, 1913, ch. 6, § 29, as added Pub. L. 95-630, title I, § 101, Nov. 10, 1978, 92 Stat. 3641; amended Pub. L. 97-320, title IV, § 424(c), (d)(1), (e), Oct. 15, 1982, 96 Stat. 1523; Pub. L. 101-73, title IX, §§ 905(f), 907(g), Aug. 9, 1989, 103 Stat. 461, 470.)

**Editorial Notes**

**CODIFICATION**

In subsec. (a), "section 371c, 371c-1, 375, 375a, 375b, 376, or 503 of this title" was in the original "section 22, 23A, or 23B", meaning section 22, 23A, or 23B of the Federal Reserve Act. Sections 23A and 23B are classified to sections 371c and 371c-1, respectively, of this title. Subsections (d) to (h) of section 22 are classified to sections 375, 375a, 375b, 376, and 503 of this title. The text of section 375 of this title was struck out by Pub. L. 111-203, title VI, § 615(b), July 21, 2010, 124 Stat. 1615.

**AMENDMENTS**

1989—Pub. L. 101-73, § 907(g), amended section generally, substituting provisions of subsecs. (a) to (i) for former provisions which related to the following: subsec. (a), making loans, extensions of credit, purchases of securities, etc., respecting affiliates, executive officers, etc.; subsec. (b), amount of penalty; subsec. (c), opportunity for hearing; subsec. (d), review by United States court of appeals; subsec. (e), action by Attorney General for failure to pay assessment; subsec. (f), promulgation of regulations; and subsec. (g), penalties covered into Treasury of United States.

Subsec. (m). Pub. L. 101-73, § 905(f), added subsec. (m).

1982—Subsec. (a). Pub. L. 97-320, § 424(c), (d)(1), inserted proviso giving agency discretionary authority to compromise, etc., any civil money penalty imposed under its authority, and substituted "may be assessed" for "shall be assessed", respectively.

Subsec. (d). Pub. L. 97-320, § 424(e), substituted "twenty days from the service" for "ten days from the date".

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1989 AMENDMENT**

Amendment by section 907(g) 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.

**EFFECTIVE DATE**

Section effective with respect to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95-630 set out as an Effective Date of 1978 Amendment note under section 93 of this title.

**§ 505. Civil money penalty**

**(1) First tier**

Any member bank which, and any institution-affiliated party (within the meaning of section

<sup>3</sup> So in original. Probably should be followed by a dash rather than "by".

<sup>4</sup> So in original. No subsecs. (j) to (l) have been enacted.

1813(u) of this title) with respect to such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

## (2) Second tier

Notwithstanding paragraph (1), any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who—

- (A)(i) commits any violation described in paragraph (1);
- (ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or
- (iii) breaches any fiduciary duty;
- (B) which violation, practice, or breach—
  - (i) is part of a pattern of misconduct;
  - (ii) causes or is likely to cause more than a minimal loss to such member bank; or
  - (iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

## (3) Third tier

Notwithstanding paragraphs (1) and (2), any member bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such member bank who—

- (A) knowingly—
  - (i) commits any violation described in paragraph (1);
  - (ii) engages in any unsafe or unsound practice in conducting the affairs of such member bank; or
  - (iii) breaches any fiduciary duty; and
- (B) knowingly or recklessly causes a substantial loss to such member bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

## (4) Maximum amounts of penalties for any violation described in paragraph (3)

The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

- (A) in the case of any person other than a member bank, an amount not to exceed \$1,000,000; and
- (B) in the case of a member bank, an amount not to exceed the lesser of—
  - (i) \$1,000,000; or
  - (ii) 1 percent of the total assets of such member bank.

## (5) Assessment; etc.

Any penalty imposed under paragraph (1), (2), or (3) may be assessed and collected by the Board 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 shall be subject to the provisions of such section.

## (6) Hearing

The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person 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.

## (7) Disbursement

All penalties collected under authority of this section shall be deposited into the Treasury.

## (8) "Violate" defined

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

## (9) Regulations

The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

(Dec. 23, 1913, ch. 6, § 19(l), formerly § 19(j), as added Pub. L. 95-630, title I, § 102, Nov. 10, 1978, 92 Stat. 3642; renumbered § 19(l), Pub. L. 96-221, title I, § 105(f), Mar. 31, 1980, 94 Stat. 140; amended Pub. L. 97-320, title IV, § 424(a), (d)(2), (e), Oct. 15, 1982, 96 Stat. 1522, 1523; Pub. L. 101-73, title IX, § 907(h), Aug. 9, 1989, 103 Stat. 472.)

## Editorial Notes

### REFERENCES IN TEXT

This section, referred to in pars. (1) and (8), means section 19 of act Dec. 23, 1913, which is classified to sections 142, 371b, 371b-1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

### AMENDMENTS

1989—Pub. L. 101-73 amended section generally, revising and restating as pars. (1) to (9) provisions of former pars. (1) to (7) which related to civil penalty respecting depository, reserve, etc., requirements; amount; hearing; review; action by Attorney General; and regulations.

1982—Par. (1). Pub. L. 97-320, § 424(a), (d)(2), inserted proviso giving Board discretionary authority to compromise, etc., any civil money penalty imposed under this section, and substituted "may be assessed" for "shall be assessed".

Par. (4). Pub. L. 97-320, § 424(e), substituted "twenty days from the service" for "ten days from the date".

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by 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.

### EFFECTIVE DATE

Section effective with respect to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub.

L. 95-630 set out as an Effective Date of 1978 Amendment note under section 93 of this title.

#### § 506. Notice after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after August 9, 1989).

(Dec. 23, 1913, ch. 6, §19(m), as added Pub. L. 101-73, title IX, §905(g), Aug. 9, 1989, 103 Stat. 461.)

#### Editorial Notes

##### REFERENCES IN TEXT

This section, referred to in text, means section 19 of act Dec. 23, 1913, which is classified to sections 142, 371b, 371b-1, 374, 374a, 461, 463 to 466, 505, and 506 of this title.

#### SUBCHAPTER XVII—RESERVE-BANK BRANCHES

#### § 521. Reserve-bank branches; establishment; directors; discontinuance of branches; approval for erection of branch bank building

The Board of Governors of the Federal Reserve System may permit or require any Federal reserve bank to establish branch banks within the Federal reserve district in which it is located or within the district of any Federal reserve bank which may have been suspended. Such branches, subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, shall be operated under the supervision of a board of directors to consist of not more than seven nor less than three directors, of whom a majority of one shall be appointed by the Federal reserve bank of the district, and the remaining directors by the Board of Governors of the Federal Reserve System. Directors of branch banks shall hold office during the pleasure of the Board of Governors of the Federal Reserve System.

The Board of Governors of the Federal Reserve System may at any time require any Federal reserve bank to discontinue any branch of such Federal reserve bank established under this section. The Federal reserve bank shall thereupon proceed to wind up the business of such branch bank, subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe.

No Federal Reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character or to authorize the erection of any such building, except with the approval of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, §3, 38 Stat. 253; June 21, 1917, ch. 32, §1, 40 Stat. 232; Feb. 25, 1927, ch. 191, §19,

44 Stat. 1234; Aug. 23, 1935, ch. 614, title II, §203(a), 49 Stat. 704; Pub. L. 87-622, §2, Aug. 31, 1962, 76 Stat. 418.)

#### Editorial Notes

##### AMENDMENTS

1962—Pub. L. 87-622 added par. providing that no Federal Reserve Bank shall have authority to enter into any contract for the erection of a branch bank building or to authorize the erection of such building, except with the approval of the Board of Governors of the Federal Reserve System.

1927—Act Feb. 25, 1927, added par. authorizing the Federal Reserve Board to discontinue and wind up the business of branch banks.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed name of Federal Reserve Board to Board of Governors of the Federal Reserve System.

#### § 522. Federal Reserve branch bank buildings

No Federal Reserve bank may authorize the acquisition or construction of any branch building, or enter into any contract or other obligation for the acquisition or construction of any branch building, without the approval of the Board.

(Dec. 23, 1913, ch. 6, §10 (par.), as added June 3, 1922, ch. 205, 42 Stat. 622; amended Feb. 6, 1923, ch. 60, 42 Stat. 1223; July 30, 1947, ch. 352, 61 Stat. 520; May 29, 1953, ch. 87, 67 Stat. 41; Pub. L. 87-622, §1, Aug. 31, 1962, 76 Stat. 418; Pub. L. 93-495, title I, §108, Oct. 28, 1974, 88 Stat. 1505; Pub. L. 102-491, §2, Oct. 24, 1992, 106 Stat. 3144.)

#### Editorial Notes

##### CODIFICATION

Section is comprised of ninth paragraph of act Dec. 23, 1913, §10, as added June 3, 1922. For classification to this title of other pars. of section 10, see Codification note set out under section 241 of this title.

##### AMENDMENTS

1992—Pub. L. 102-491 amended section generally. Prior to amendment, section read as follows: "No Federal reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character, or to authorize the erection of any such building, if the cost of the building proper, exclusive of the cost of the vaults, permanent equipment, furnishings, and fixtures, is in excess of \$250,000: *Provided*, That nothing herein shall apply to any building under construction prior to June 3, 1922: *Provided further*, That the cost as above specified shall not be so limited as long as the aggregate of such costs which are incurred by all Federal Reserve banks for branch bank buildings with the approval of the Board of Governors after July 30, 1947 does not exceed \$140,000,000."

1974—Pub. L. 93-495 increased from \$60,000,000 to \$140,000,000 the limitation on aggregate costs of constructing branch bank buildings.

1962—Pub. L. 87-622 increased from \$30,000,000 to \$60,000,000 the limitation on aggregate costs of constructing branch bank buildings.

1953—Act May 29, 1953, increased from \$10,000,000 to \$30,000,000 the limitation on aggregate cost of constructing branch bank buildings.

1947—Act July 30, 1947, inserted proviso exempting limitation on cost of construction where aggregate costs do not exceed \$10,000,000.