

office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

**(2) Second tier**

Any foreign bank, or any office or subsidiary of a foreign bank, that—

(A) fails to make, submit, or publish such reports or information as may be required under this chapter or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this chapter, within the time period specified by such agency; or

(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) 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.

**(3) Third tier**

Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than \$1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

**(4) Assessment of penalties**

Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) of this section (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

**(5) Hearing procedure**

Section 1818(h) of this title shall apply to any proceeding under this subsection.

(Pub. L. 95-369, §16, as added Pub. L. 102-242, title II, §208, Dec. 19, 1991, 105 Stat. 2295.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in subsecs. (a)(1) and (c)(1)(A)(i), (2)(A), see References in Text note set out under section 3101 of this title.

**§ 3111. Criminal penalty**

Whoever, with the intent to deceive, to gain financially, or to cause financial gain or loss to any person, knowingly violates any provision of this chapter or any regulation or order issued by the appropriate Federal banking agency under this chapter shall be imprisoned not more than 5 years or fined not more than \$1,000,000 for each day during which a violation continues, or both.

(Pub. L. 95-369, §17, as added Pub. L. 102-242, title II, §213, Dec. 19, 1991, 105 Stat. 2303.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in text, see References in Text note set out under section 3101 of this title.

**CHAPTER 33—DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS**

Sec. 3201. 3202.	Definitions. Dual service of management official as management official of unaffiliated institution or holding company in same area, town, or village prohibited.
3203.	Dual service of management official of \$2,500,000,000 institution or holding company as management official of unaffiliated \$1,500,000,000 institution or holding company prohibited.
3204.	Exceptions.
3205.	Management official in position prior to November 10, 1978.
3206.	Administration and enforcement.
3207.	Rules and regulations.
3208.	Powers available to Attorney General for enforcement.

**§ 3201. Definitions**

As used in this chapter—

(1) the term "depository institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

(2) the term "depository holding company" means a bank holding company as defined in section 1841(a) of this title, a company which would be a bank holding company as defined in section 1841(a) of this title but for the exemption contained in subsection (a)(5)(F) thereof, or a savings and loan holding company as defined in section 1730a(a)(1)(D)<sup>1</sup> of this title;

(3) the characterization of any corporation (including depository institutions and depository holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depository holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depository holding company, as the term "subsidiary" is defined in either section 1841(d) of this title in the case of a bank holding company or section 1730a(a)(1)(H)<sup>1</sup> of this title in the case of a savings and loan holding company; or

(B) more than 25 percent of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 25 percent of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on November 10, 1978, and the other corporation is a mutual savings bank; or

(D) one of the corporations is a bank, insured by the Federal Deposit Insurance Cor-

<sup>1</sup> See References in Text note below.