

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.

poration and chartered under State law, and is a bankers' bank, described in Paragraph Seventh of section 24 of this title; or

(E) one of the corporations is a bank, chartered under State law and insured by the Federal Deposit Insurance Corporation, the voting securities of which are held only by persons who are officers of other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however,* That in no case shall the voting securities of such corporation be held by such officers of other banks in excess of 6 per centum of the paid-in capital and 6 per centum of the surplus of such a bank.<sup>2</sup>

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director, except in the case of a depository institution with total assets of less than \$100,000,000), a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: *Provided,* That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this chapter, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further,* That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this chapter, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank;

(5) the term "office" used with reference to a depository institution means either a principal office or a branch; and

(6) the term "appropriate Federal depository institutions regulatory agency" means, with respect to any depository institution or depository holding company, the agency referred to in section 3207 of this title in connection with such institution or company.

(Pub. L. 95-630, title II, §202, Nov. 10, 1978, 92 Stat. 3672; Pub. L. 100-650, §§2, 3, 5(b)(1), Nov. 10, 1988, 102 Stat. 3819, 3820; Pub. L. 103-325, title III, §322(c)(2), Sept. 23, 1994, 108 Stat. 2227.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title II of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3672, known as the Depository Institution

Management Interlocks Act, which enacted this chapter, amended sections 1464, 1730, and 1818 of this title, and enacted provisions set out as a note below. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Section 1730a of this title, referred to in pars. (2) and (3)(A), was repealed by Pub. L. 101-73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

#### AMENDMENTS

1994—Par. (3)(D). Pub. L. 103-325 substituted "and is a bankers' bank, described in Paragraph Seventh of section 24 of this title; or" for "the voting securities of which are held by other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however,* That in no case shall the voting securities of such corporation be held by any such other bank in excess of 5 per centum of the paid-in capital and 5 per centum of the surplus of such other bank; or".

1988—Par. (3)(B). Pub. L. 100-650, §2, substituted "25 percent" for "50 per centum" in two places.

Par. (4). Pub. L. 100-650, §3, substituted "(including an advisory or honorary director, except in the case of a depository institution with total assets of less than \$100,000,000)" for "(including an advisory or honorary director)".

Par. (6). Pub. L. 100-650, §5(b)(1), added par. (6).

#### EFFECTIVE DATE

Chapter effective upon the expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95-630, set out as an Effective Date note under section 375b of this title.

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-650, §1, Nov. 10, 1988, 102 Stat. 3819, provided that: "This Act [amending sections 3201, 3204, and 3205 of this title] may be referred to as the 'Management Interlocks Revision Act of 1988'."

#### SHORT TITLE

Pub. L. 95-630, title II, §201, Nov. 10, 1978, 92 Stat. 3672, provided that: "This title [enacting this chapter and amending sections 1464, 1730, and 1818 of this title] may be cited as the 'Depository Institution Management Interlocks Act'."

### §3202. Dual service of management official as management official of unaffiliated institution or holding company in same area, town, or village prohibited

A management official of a depository institution or a depository holding company may not serve as a management official of any other depository institution or depository holding company not affiliated therewith if an office of one of the institutions or any depository institution that is an affiliate of such institutions is located within either—

(1) the same primary metropolitan statistical area, the same metropolitan statistical area, or the same consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas as defined by the Office of Management and Budget, except in the case of depository institutions with less than \$50,000,000 in assets in which case the provision of paragraph (2) shall apply, as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or

(2) the same city, town, or village as that in which an office of the other institution or any

<sup>2</sup> So in original. The period probably should be a semicolon.