

taken in response to the recommendations in the report, and if no such actions were taken, describing the reasons why no actions were taken.

(Pub. L. 111-203, title II, §211, July 21, 2010, 124 Stat. 1514.)

REFERENCES IN TEXT

This subchapter, referred to in subssecs. (d)(1), (2), (4)(B), (5), (e)(1), (2), and (f)(2), was in the original “this title”, meaning title II of Pub. L. 111-203, July 21, 2010, 124 Stat. 1442, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Section 5390(n)(14) of this title, referred to in subsec. (d)(1)(C), probably means section 5390(n)(9), because section 5390(n) of this title does not contain a par. (14) and section 5390(n)(9) of this title relates to orderly liquidation plans.

The Inspector General Act of 1978, referred to in subssecs. (d)(3) and (e)(3), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section is comprised of section 211 of Pub. L. 111-203. Subssecs. (a) to (c) of section 211 of Pub. L. 111-203 amended section 4403 of this title and section 1032 of title 18, Crimes and Criminal Procedure.

§ 5392. Prohibition of circumvention and prevention of conflicts of interest

(a) No other funding

Funds for the orderly liquidation of any covered financial company under this subchapter shall only be provided as specified under this subchapter.

(b) Limit on governmental actions

No governmental entity may take any action to circumvent the purposes of this subchapter.

(c) Conflict of interest

In the event that the Corporation is appointed receiver for more than 1 covered financial company or is appointed receiver for a covered financial company and receiver for any insured depository institution that is an affiliate of such covered financial company, the Corporation shall take appropriate action, as necessary to avoid any conflicts of interest that may arise in connection with multiple receiverships.

(Pub. L. 111-203, title II, §212, July 21, 2010, 124 Stat. 1516.)

REFERENCES IN TEXT

This subchapter, referred to in subssecs. (a) and (b), was in the original “this title”, meaning title II of Pub. L. 111-203, July 21, 2010, 124 Stat. 1442, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

§ 5393. Ban on certain activities by senior executives and directors

(a) Prohibition authority

The Board of Governors or, if the covered financial company was not supervised by the Board of Governors, the Corporation, may exercise the authority provided by this section.

(b) Authority to issue order

The appropriate agency described in subsection (a) may take any action authorized by subsection (c), if the agency determines that—

(1) a senior executive or a director of the covered financial company, prior to the appointment of the Corporation as receiver, has, directly or indirectly—

(A) violated—

(i) any law or regulation;

(ii) any cease-and-desist order which has become final;

(iii) any condition imposed in writing by a Federal agency in connection with any action on any application, notice, or request by such company or senior executive; or

(iv) any written agreement between such company and such agency;

(B) engaged or participated in any unsafe or unsound practice in connection with any financial company; or

(C) committed or engaged in any act, omission, or practice which constitutes a breach of the fiduciary duty of such senior executive or director;

(2) by reason of the violation, practice, or breach described in any subparagraph of paragraph (1), such senior executive or director has received financial gain or other benefit by reason of such violation, practice, or breach and such violation, practice, or breach contributed to the failure of the company; and

(3) such violation, practice, or breach—

(A) involves personal dishonesty on the part of such senior executive or director; or

(B) demonstrates willful or continuing disregard by such senior executive or director for the safety or soundness of such company.

(c) Authorized actions

(1) In general

The appropriate agency for a financial company, as described in subsection (a), may serve upon a senior executive or director described in subsection (b) a written notice of the intention of the agency to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any financial company for a period of time determined by the appropriate agency to be commensurate with such violation, practice, or breach, provided such period shall be not less than 2 years.

(2) Procedures

The due process requirements and other procedures under section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) shall apply to actions under this section as if the covered financial company were an insured depository institution and the senior executive or director were an institution-affiliated party, as those terms are defined in that Act [12 U.S.C. 1811 et seq.].

(d) Regulations

The Corporation and the Board of Governors, in consultation with the Council, shall jointly prescribe rules or regulations to administer and carry out this section, including rules, regulations, or guidelines to further define the term senior executive for the purposes of this section.

(Pub. L. 111-203, title II, §213, July 21, 2010, 124 Stat. 1517.)