

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this title”, and was translated as reading “this subtitle”, meaning subtitle H of title XXV of Pub. L. 101-647, known as the Financial Institutions Anti-Fraud Enforcement Act of 1990, which is classified principally to this chapter, as the probable intent of Congress. For complete classification of subtitle H to the Code, see Short Title note set out under section 4201 of this title and Tables.

§ 4204. Ineligibility to file valid declarations**(a) In general**

A declaration filed pursuant to section 4201¹ of this title and in accordance with sections 4202 and 4203 of this title is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant’s government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18 or any of the sections of title 18 referred to in section 1833a(c) of this title, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 1813(u) of this title) who withheld information during the course of any bank examination or investigation authorized pursuant to section 1820 of this title which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or Government Accountability Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) “Original source” defined

For the purposes of subsection (a)(5), the term “original source” means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) Notice of invalidity

If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 4202 of this title, or that a declaration has been disclosed in violation of section 4203 of this title, the Attorney General

shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 4205 or 4206 of this title.

(Pub. L. 101-647, title XXV, §2564, Nov. 29, 1990, 104 Stat. 4895; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

Editorial Notes

REFERENCES IN TEXT

Section 4201 of this title, referred to in subsec. (a), was in the original “section 811”, and was translated as reading “section 2561”, meaning section 2561 of Pub. L. 101-647, as the probable intent of Congress, because Pub. L. 101-647 does not contain a section 811.

AMENDMENTS

2004—Subsec. (a)(5). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

§ 4205. Rights of declarants; participation in actions, awards**(a) In general**

A person who has filed a declaration that meets the requirements of sections 4201 through 4204 of this title shall have the rights stated in this section.

(b) Civil action

If the Attorney General determines that a cause of action referred to in section 4201 of this title based on the declaration should be referred to private counsel pursuant to subchapter III, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant’s counsel shall act in accordance with subchapter III.

(c) Criminal conviction

(1) When the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 4201 of this title the Attorney General may, in his discretion, pay a reward to the declarant¹

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General’s discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government’s case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

¹ See References in Text note below.

¹ So in original. Probably should be followed by a period.