

means of interstate wire, radio, or television communication”.

§ 1344. Bank fraud

Whoever knowingly executes, or attempts to execute, a scheme or artifice—

(1) to defraud a financial institution; or

(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

(Added Pub. L. 98-473, title II, §1108(a), Oct. 12, 1984, 98 Stat. 2147; amended Pub. L. 101-73, title IX, §961(k), Aug. 9, 1989, 103 Stat. 500; Pub. L. 101-647, title XXV, §2504(j), Nov. 29, 1990, 104 Stat. 4861.)

Editorial Notes

AMENDMENTS

1990—Pub. L. 101-647 substituted “30” for “20” before “years”.

1989—Pub. L. 101-73 amended section generally, restating former subsec. (a) and striking out former subsec. (b) which defined “federally chartered or insured financial institution”. Prior to amendment, subsec. (a) read as follows: “Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud a federally chartered or insured financial institution; or

“(2) to obtain any of the moneys, funds, credits, assets, securities or other property owned by or under the custody or control of a federally chartered or insured financial institution by means of false or fraudulent pretenses, representations, or promises, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.”

§ 1345. Injunctions against fraud

(a)(1) If a person is—

(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title;

(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title); or

(C) committing or about to commit a Federal health care offense;

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or a Federal health care offense or property which is traceable to such violation, the Attorney General may commence a civil action in any Federal court—

(A) to enjoin such alienation or disposition of property; or

(B) for a restraining order to—

(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

(ii) appoint a temporary receiver to administer such restraining order.

(3) A permanent or temporary injunction or restraining order shall be granted without bond.

(b) The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Added Pub. L. 98-473, title II, §1205(a), Oct. 12, 1984, 98 Stat. 2152; amended Pub. L. 100-690, title VII, §7077, Nov. 18, 1988, 102 Stat. 4406; Pub. L. 101-647, title XXV, §2521(b)(2), title XXXV, §3542, Nov. 29, 1990, 104 Stat. 4865, 4925; Pub. L. 103-322, title XXXIII, §330011(k), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 104-191, title II, §247, Aug. 21, 1996, 110 Stat. 2018; Pub. L. 107-273, div. B, title IV, §4002(b)(14), Nov. 2, 2002, 116 Stat. 1808.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix to this title.

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of subsection (a)(2) of this section, as added by section 2521(b)(2) of Pub. L. 101-647, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

AMENDMENTS

2002—Subsec. (a)(1)(B). Pub. L. 107-273, §4002(b)(14)(A), substituted “; or” for “, or” at end.

Subsec. (a)(1)(C). Pub. L. 107-273, §4002(b)(14)(B), substituted semicolon for period at end.

1996—Subsec. (a)(1)(C). Pub. L. 104-191, §247(a), added subpar. (C).

Subsec. (a)(2). Pub. L. 104-191, §247(b), inserted “or a Federal health care offense” after “title”.

1994—Pub. L. 103-322, §330011(k), repealed Pub. L. 101-647, §3542. See 1990 Amendment note below.

1990—Pub. L. 101-647, §2521(b)(2), added subsec. (a), inserted subsec. (b) designation, and struck out former first sentence which read as follows: “Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter, or of section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation.”

Pub. L. 101-647, §3542, which directed insertion of a comma after “of this title”, was repealed by Pub. L. 103-322, §330011(k).

1988—Pub. L. 100-690 inserted “or of section 287, 371 (insofar as such violation involves a conspiracy to de-

fraud the United States or any agency thereof), or 1001 of this title” after “violation of this chapter.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, § 330011(k), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective Nov. 29, 1990.

§ 1346. Definition of “scheme or artifice to defraud”

For the purposes of this chapter, the term “scheme or artifice to defraud” includes a scheme or artifice to deprive another of the intangible right of honest services.

(Added Pub. L. 100-690, title VII, § 7603(a), Nov. 18, 1988, 102 Stat. 4508.)

§ 1347. Health care fraud

(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

(1) to defraud any health care benefit program; or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

(b) With respect to violations of this section, a person need not have actual knowledge of this section or specific intent to commit a violation of this section.

(Added Pub. L. 104-191, title II, § 242(a)(1), Aug. 21, 1996, 110 Stat. 2016; amended Pub. L. 111-148, title X, § 10606(b), Mar. 23, 2010, 124 Stat. 1008.)

Editorial Notes

AMENDMENTS

2010—Pub. L. 111-148 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1348. Securities and commodities fraud

Whoever knowingly executes, or attempts to execute, a scheme or artifice—

(1) to defraud any person in connection with any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the pur-

chase or sale of any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

shall be fined under this title, or imprisoned not more than 25 years, or both.

(Added Pub. L. 107-204, title VIII, § 807(a), July 30, 2002, 116 Stat. 804; amended Pub. L. 111-21, § 2(e)(1), May 20, 2009, 123 Stat. 1618.)

Editorial Notes

AMENDMENTS

2009—Pub. L. 111-21, § 2(e)(1)(A), inserted “and commodities” before “fraud” in section catchline.

Pars. (1), (2). Pub. L. 111-21, § 2(e)(1)(B), (C), inserted “any commodity for future delivery, or any option on a commodity for future delivery, or” before “any security”.

§ 1349. Attempt and conspiracy

Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Added Pub. L. 107-204, title IX, § 902(a), July 30, 2002, 116 Stat. 805.)

§ 1350. Failure of corporate officers to certify financial reports

(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

(b) CONTENT.—The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.

(c) CRIMINAL PENALTIES.—Whoever—

(1) certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than \$1,000,000 or imprisoned not more than 10 years, or both; or

(2) willfully certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than \$5,000,000, or imprisoned not more than 20 years, or both.

¹ So in original. Probably should be “of”.