

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.

<sup>1</sup> So in original. Probably should be “of”.