

§ 1959. Administrative procedure

The administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of title 5 shall apply to all proceedings under this chapter, section 1829b of this title, and section 1730d¹ of this title.

(Pub. L. 91-508, title I, § 129, Oct. 26, 1970, 84 Stat. 1118.)

Editorial Notes

REFERENCES IN TEXT

Section 1730d of this title, referred to in text, was repealed by Pub. L. 101-73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of seventh calendar month which begins after Oct. 26, 1970, except that the Secretary of the Treasury may, by regulation, provide that this section be effective on any date not earlier than the publication of such regulations in the Federal Register and not later than first day of thirteenth calendar month which begins after Oct. 26, 1970, see section 401(a), (b) of Pub. L. 91-508, set out as a note under section 1951 of this title.

§ 1960. Safe harbor with respect to keep open directives

(a) Definition

In this section, the term “financial institution” means an entity to which section 1953(b) of this title applies.

(b) Safe harbor

With respect to a customer account or customer transaction of a financial institution, if a Federal law enforcement agency, after notifying FinCEN of the intent to submit a written request to the financial institution that the financial institution keep that account or transaction open (referred to in this section as a “keep open request”), or if a State, Tribal, or local law enforcement agency with the concurrence of FinCEN submits a keep open request—

(1) the financial institution shall not be liable under this chapter for maintaining that account or transaction consistent with the parameters and timing of the request; and

(2) no Federal or State department or agency may take any adverse supervisory action under this chapter with respect to the financial institution solely for maintaining that account or transaction consistent with the parameters of the request.

(c) Rule of construction

Nothing in this section may be construed—

(1) to prevent a Federal or State department or agency from verifying the validity of a keep open request submitted under subsection (b) with the law enforcement agency submitting that request;

(2) to relieve a financial institution from complying with any reporting requirements, including the reporting of suspicious transactions under section 5318(g) of title 31; or

(3) to extend the safe harbor described in subsection (b) to any actions taken by the financial institution—

(A) before the date of the keep open request to maintain a customer account; or

(B) after the termination date stated in the keep open request.

(d) Letter termination date

For the purposes of this section, any keep open request submitted under subsection (b) shall include a termination date after which that request shall no longer apply.

(e) Record keeping

Any Federal, State, Tribal, or local law enforcement agency that submits to a financial institution a keep open request shall, not later than 2 business days after the date on which the request is submitted to the financial institution—

(1) submit to FinCEN a copy of the request; and

(2) alert FinCEN as to whether the financial institution has implemented the request.

(Pub. L. 91-508, title I, § 130, as added Pub. L. 116-283, div. F, title LXIII, § 6306(a)(2), Jan. 1, 2021, 134 Stat. 4588.)

CHAPTER 22—TYING ARRANGEMENTS

| Sec. | |
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| 1971. | Definitions. |
| 1972. | Certain tying arrangements prohibited; correspondent accounts. |
| 1973. | Jurisdiction of courts; duty of United States attorneys; equitable proceedings; petition; expedition of cases; temporary restraining orders; bringing in additional parties; subpoenas. |
| 1974. | Actions by United States; subpoenas for witnesses. |
| 1975. | Civil actions by persons injured; jurisdiction and venue; amount of recovery. |
| 1976. | Injunctive relief for persons against threatened loss or damages; equitable proceedings; preliminary injunctions. |
| 1977. | Limitation of actions; suspension of limitations. |
| 1978. | Actions under other Federal or State laws unaffected; regulations or orders barred as a defense. |

§ 1971. Definitions

As used in this chapter, the terms “bank”, “bank holding company”, “subsidiary”, and “Board” have the meaning ascribed to such terms in section 1841 of this title. For purposes of this chapter only, the term “company”, as used in section 1841 of this title, means any person, estate, trust, partnership, corporation, association, or similar organization, but does not include any corporation the majority of the shares of which are owned by the United States or by any State. The term “trust service” means any service customarily performed by a bank trust department. For purposes of this chapter, a financial subsidiary of a national bank engaging in activities pursuant to section 24a(a) of this title shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.

(Pub. L. 91-607, title I, § 106(a), Dec. 31, 1970, 84 Stat. 1766; Pub. L. 106-102, title I, § 121(c), Nov. 12, 1999, 113 Stat. 1380.)

¹ See References in Text note below.

Editorial Notes

AMENDMENTS

1999—Pub. L. 106-102 inserted at end “For purposes of this chapter, a financial subsidiary of a national bank engaging in activities pursuant to section 24a(a) of this title shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-102 effective 120 days after Nov. 12, 1999, see section 161 of Pub. L. 106-102, set out as a note under section 24 of this title.

§ 1972. Certain tying arrangements prohibited; correspondent accounts

(1) A bank shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

(A) that the customer shall obtain some additional credit, property, or service from such bank other than a loan, discount, deposit, or trust service;

(B) that the customer shall obtain some additional credit, property, or service from a bank holding company of such bank, or from any other subsidiary of such bank holding company;

(C) that the customer provide some additional credit, property, or service to such bank, other than those related to and usually provided in connection with a loan, discount, deposit, or trust service;

(D) that the customer provide some additional credit, property, or service to a bank holding company of such bank, or to any other subsidiary of such bank holding company; or

(E) that the customer shall not obtain some other credit, property, or service from a competitor of such bank, a bank holding company of such bank, or any subsidiary of such bank holding company, other than a condition or requirement that such bank shall reasonably impose in a credit transaction to assure the soundness of the credit.

The Board may issue such regulations as are necessary to carry out this section, and, in consultation with the Comptroller of the Currency and the Federal Deposit Insurance Company, may by regulation or order permit such exceptions to the foregoing prohibition and the prohibitions of section 1843(f)(9) and 1843(h)(2) of this title as it considers will not be contrary to the purposes of this chapter.

(2)(A) No bank which maintains a correspondent account in the name of another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank or to any related interest of such person unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other

persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(B) No bank shall open a correspondent account at another bank while such bank has outstanding an extension of credit to an executive officer or director of, or other person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, the bank desiring to open the account or to any related interest of such person, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(C) No bank which maintains a correspondent account at another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank or to any related interest of such person, unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(D) No bank which has outstanding an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, another bank or to any related interest of such person shall open a correspondent account at such other bank, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

(E) For purposes of this paragraph, the term “extension of credit” shall have the meaning prescribed by the Board pursuant to section 375b of this title, and the term “executive officer” shall have the same meaning given it under section 375a of this title.

(F) CIVIL MONEY PENALTY.—

(i) FIRST TIER.—Any bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such bank who, violates any provision of this paragraph shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(ii) SECOND TIER.—Notwithstanding clause (i), any bank which, and any institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to such bank who—

(I)(aa) commits any violation described in clause (i);