

hibition continue in force for more than a total of 9 months.

**(2) Application**

This subsection shall apply only in connection with compulsory process issued by the Commission where the recipient of such process is not a subject of the investigation or proceeding at the time such process is issued.

**(3) Limitation**

No order issued under this subsection shall prohibit any recipient from disclosing to a Federal agency that the recipient has received compulsory process from the Commission.

**(d) No liability for failure to notify**

If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, the recipient of compulsory process issued by the Commission under this subchapter shall not be liable under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice to any person that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not exempt any recipient from liability for—

- (1) the underlying conduct reported;
- (2) a failure to comply with the record retention requirements under section 1104(c) of the Right to Financial Privacy Act (12 U.S.C. 3404[c]), where applicable; or
- (3) any failure to comply with any obligation the recipient may have to disclose to a Federal agency that the recipient has received compulsory process from the Commission or intends to provide or has provided information to the Commission in response to such process.

**(e) Venue and procedure**

**(1) In general**

All judicial proceedings initiated by the Commission under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), chapter 121 of title 18, or this section may be brought in the United States District Court for the District of Columbia or any other appropriate United States District Court. All ex parte applications by the Commission under this section related to a single investigation may be brought in a single proceeding.

**(2) In camera proceedings**

Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit.

**(f) Section not to apply to antitrust investigations or proceedings**

This section shall not apply to an investigation or proceeding related to the administration of Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 6211 of this title).

**(g) Adverse result defined**

For purposes of this section the term “adverse result” means—

- (1) endangering the life or physical safety of an individual;
- (2) flight from prosecution;
- (3) the destruction of, or tampering with, evidence;
- (4) the intimidation of potential witnesses;

or

- (5) otherwise seriously jeopardizing an investigation or proceeding related to fraudulent or deceptive commercial practices or persons involved in such practices, or unduly delaying a trial related to such practices or persons involved in such practices, including, but not limited to, by—

(A) the transfer outside the territorial limits of the United States of assets or records related to fraudulent or deceptive commercial practices or related to persons involved in such practices;

(B) impeding the ability of the Commission to identify persons involved in fraudulent or deceptive commercial practices, or to trace the source or disposition of funds related to such practices; or

(C) the dissipation, fraudulent transfer, or concealment of assets subject to recovery by the Commission.

(Sept. 26, 1914, ch. 311, §21A, as added Pub. L. 109-455, §7(a), Dec. 22, 2006, 120 Stat. 3377.)

REPEAL OF SECTION

*For repeal of section by section 13 of Pub. L. 109-455, see Effective Date of Repeal note below.*

Editorial Notes

REFERENCES IN TEXT

The Right to Financial Privacy Act, referred to in subsecs. (a) to (e), probably means the Right to Financial Privacy Act of 1978, Pub. L. 95-630, title XI, Nov. 10, 1978, 92 Stat. 3697, as amended, which is classified generally to chapter 35 (§ 3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Section repealed effective Sept. 30, 2027, see section 13 of Pub. L. 109-455, as amended, set out as a Termination Date of 2006 Amendment note under section 44 of this title.

**§ 57b-2b. Protection for voluntary provision of information**

**(a) In general**

**(1) No liability for providing certain material**

An entity described in paragraphs (2) or (3) of subsection (d) that voluntarily provides material to the Commission that such entity reasonably believes is relevant to—

(A) a possible unfair or deceptive act or practice, as defined in section 45(a) of this title; or

(B) assets subject to recovery by the Commission, including assets located in foreign jurisdictions;

shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material.

**(2) Limitations**

Nothing in this subsection shall be construed to exempt any such entity from liability—

- (A) for the underlying conduct reported; or
- (B) to any Federal agency for providing such material or for any failure to comply with any obligation the entity may have to notify a Federal agency prior to providing such material to the Commission.

**(b) Certain financial institutions**

An entity described in paragraph (1) of subsection (d) shall, in accordance with section 5318(g)(3) of title 31, be exempt from liability for making a voluntary disclosure to the Commission of any possible violation of law or regulation, including—

- (1) a disclosure regarding assets, including assets located in foreign jurisdictions—
  - (A) related to possibly fraudulent or deceptive commercial practices;
  - (B) related to persons involved in such practices; or
  - (C) otherwise subject to recovery by the Commission; or
- (2) a disclosure regarding suspicious chargeback rates related to possibly fraudulent or deceptive commercial practices.

**(c) Consumer complaints**

Any entity described in subsection (d) that voluntarily provides consumer complaints sent to it, or information contained therein, to the Commission shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material. This subsection shall not provide any exemption from liability for the underlying conduct.

**(d) Application**

This section applies to the following entities, whether foreign or domestic:

- (1) A financial institution as defined in section 5312 of title 31.
- (2) To the extent not included in paragraph (1), a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, money orders, or similar instruments.
- (3) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name reg-

istrar or registry acting as such, and a provider of alternative dispute resolution services.

- (4) An Internet service provider or provider of telephone services.

(Sept. 26, 1914, ch. 311, §21B, as added Pub. L. 109-455, §8, Dec. 22, 2006, 120 Stat. 3380.)

REPEAL OF SECTION

*For repeal of section by section 13 of Pub. L. 109-455, see Effective Date of Repeal note below.*

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF REPEAL

Section repealed effective Sept. 30, 2027, see section 13 of Pub. L. 109-455, as amended, set out as a Termination Date of 2006 Amendment note under section 44 of this title.

**§ 57b-3. Rulemaking process**

**(a) Definitions**

For purposes of this section:

- (1) The term “rule” means any rule promulgated by the Commission under section 46 or section 57a of this title, except that such term does not include interpretive rules, rules involving Commission management or personnel, general statements of policy, or rules relating to Commission organization, procedure, or practice. Such term does not include any amendment to a rule unless the Commission—
  - (A) estimates that such amendment will have an annual effect on the national economy of \$100,000,000 or more;
  - (B) estimates that such amendment will cause a substantial change in the cost or price of goods or services which are used extensively by particular industries, which are supplied extensively in particular geographic regions, or which are acquired in significant quantities by the Federal Government, or by State or local governments; or
  - (C) otherwise determines that such amendment will have a significant impact upon persons subject to regulation under such amendment and upon consumers.

(2) The term “rulemaking” means any Commission process for formulating or amending a rule.

- (b) **Notice of proposed rulemaking; regulatory analysis; contents; issuance**

(1) In any case in which the Commission publishes notice of a proposed rulemaking, the Commission shall issue a preliminary regulatory analysis relating to the proposed rule involved. Each preliminary regulatory analysis shall contain—

- (A) a concise statement of the need for, and the objectives of, the proposed rule;
- (B) a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable law; and
- (C) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and

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- (C) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and