

Editorial Notes

REFERENCES IN TEXT

The National Bank Consolidation and Merger Act, referred to in subsec. (a), is act Nov. 7, 1918, ch. 209, as added by Pub. L. 86-230, §20, Sept. 8, 1959, 73 Stat. 460, which is classified generally to subchapter XVI (§215 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 215 of this title and Tables.

CODIFICATION

Section was enacted as part of the Gramm-Leach-Bliley Act, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

§ 1829. Penalty for unauthorized participation by convicted individual**(a) Prohibition****(1) In general**

Except with the prior written consent of the Corporation—

(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

- (i) become, or continue as, an institution-affiliated party with respect to any insured depository institution;
- (ii) own or control, directly or indirectly, any insured depository institution; or
- (iii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution; and

(B) any insured depository institution may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

(2) Minimum 10-year prohibition period for certain offenses**(A) In general**

If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

- (i) an offense under—
 - (I) section 215, 656, 657, 1005, 1006, 1007, 1008,¹ 1014, 1032, 1344, 1517, 1956, or 1957 of title 18; or
 - (II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or
- (ii) the offense of conspiring to commit any such offense,

the Corporation may not consent to any exception to the application of paragraph (1) to such person during the 10-year period begin-

ning on the date the conviction or the agreement of the person becomes final.

(B) Exception by order of sentencing court**(i) In general**

On motion of the Corporation, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

(ii) Period for filing

A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

(b) Penalty

Whoever knowingly violates subsection (a) shall be fined not more than \$1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.

(c) Exceptions**(1) Certain older offenses****(A) In general**

With respect to an individual, subsection (a) shall not apply to an offense if—

- (i) it has been 7 years or more since the offense occurred; or
- (ii) the individual was incarcerated with respect to the offense and it has been 5 years or more since the individual was released from incarceration.

(B) Offenses committed by individuals 21 or younger

For individuals who committed an offense when they were 21 years of age or younger, subsection (a) shall not apply to the offense if it has been more than 30 months since the sentencing occurred.

(C) Limitation

This paragraph shall not apply to an offense described under subsection (a)(2).

(2) Expungement and sealing

With respect to an individual, subsection (a) shall not apply to an offense if—

- (A) there is an order of expungement, sealing, or dismissal that has been issued in regard to the conviction in connection with such offense; and
- (B) it is intended by the language in the order itself, or in the legislative provisions under which the order was issued, that the conviction shall be destroyed or sealed from the individual's State, Tribal, or Federal record, even if exceptions allow the record to be considered for certain character and fitness evaluation purposes.

(3) De minimis exemption**(A) In general**

Subsection (a) shall not apply to such de minimis offenses as the Corporation determines, by rule.

(B) Confinement criteria

In issuing rules under subparagraph (A), the Corporation shall include a requirement

¹ See References in Text note below.

that the offense was punishable by a term of three years or less confined in a correctional facility, where such confinement—

(i) is calculated based on the time an individual spent incarcerated as a punishment or a sanction, not as pretrial detention; and

(ii) does not include probation or parole where an individual was restricted to a particular jurisdiction or was required to report occasionally to an individual or a specific location.

(C) Bad check criteria

In setting the criteria for de minimis offenses under subparagraph (A), if the Corporation establishes criteria with respect to insufficient funds checks, the Corporation shall require that the aggregate total face value of all insufficient funds checks across all convictions or program entries related to insufficient funds checks is \$2,000 or less.

(D) Designated lesser offenses

Subsection (a) shall not apply to certain lesser offenses (including the use of a fake ID, shoplifting, trespass, fare evasion, driving with an expired license or tag, and such other low-risk offenses as the Corporation may designate) if 1 year or more has passed since the applicable conviction or program entry.

(d) Bank holding companies

(1) In general

Subsections (a) and (b) shall apply to any company (other than a foreign bank) that is a bank holding company and any organization organized and operated under section 25A of the Federal Reserve Act [12 U.S.C. 611 et seq.] or operating under section 25 of the Federal Reserve Act [12 U.S.C. 601 et seq.], as if such bank holding company or organization were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting “Board of Governors of the Federal Reserve System” for “Corporation” each place that term appears in such subsections.

(2) Authority of Board

The Board of Governors of the Federal Reserve System may provide exemptions, by regulation or order, from the application of paragraph (1) if the exemption is consistent with the purposes of this subsection.

(e) Savings and loan holding companies

(1) In general

Subsections (a) and (b) shall apply to any savings and loan holding company as if such savings and loan holding company were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting “Board of Governors of the Federal Reserve System” for “Corporation” each place that term appears in such subsections.

(2) Authority of Director

The Board of Governors of the Federal Reserve System may provide exemptions, by reg-

ulation or order, from the application of paragraph (1) if the exemption is consistent with the purposes of this subsection.

(f) Consent applications

(1) In general

The Corporation shall accept consent applications from an individual and from an insured depository institution or depository institution holding company on behalf of an individual that are filed separately or contemporaneously with a regional office of the Corporation.

(2) Sponsored applications filed with regional offices

Consent applications filed at a regional office of the Corporation by an insured depository institution or depository institution holding company on behalf of an individual—

(A) shall be reviewed by such office;

(B) may be approved or denied by such office, if such authority has been delegated to such office by the Corporation; and

(C) may only be denied by such office if the general counsel of the Corporation (or a designee) certifies that the denial is consistent with this section.

(3) Individual applications filed with regional offices

Consent applications filed at a regional office by an individual—

(A) shall be reviewed by such office; and

(B) may be approved or denied by such office, if such authority has been delegated to such office by the Corporation, except with respect to—

(i) cases involving an offense described under subsection (a)(2); and

(ii) such other high-level security cases as may be designated by the Corporation.

(4) National office review

The national office of the Corporation shall—

(A) review any consent application with respect to which a regional office is not authorized to approve or deny the application; and

(B) review any consent application that is denied by a regional office, if the individual requests a review by the national office.

(5) Forms and instructions

(A) Availability

The Corporation shall make all forms and instructions related to consent applications available to the public, including on the website of the Corporation.

(B) Contents

The forms and instructions described under subparagraph (A) shall provide a sample cover letter and a comprehensive list of items that may accompany the application, including clear guidance on evidence that may support a finding of rehabilitation.

(6) Consideration of criminal history

(A) Regional office consideration

In reviewing a consent application, a regional office shall—

(i) primarily rely on the criminal history record of the Federal Bureau of Investigation; and

(ii) provide such record to the applicant to review for accuracy.

(B) Certified copies

The Corporation may not require an applicant to provide certified copies of criminal history records unless the Corporation determines that there is a clear and compelling justification to require additional information to verify the accuracy of the criminal history record of the Federal Bureau of Investigation.

(7) Consideration of rehabilitation

Consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Corporation shall—

(A) conduct an individualized assessment when evaluating consent applications that takes into account evidence of rehabilitation, the applicant's age at the time of the conviction or program entry, the time that has elapsed since conviction or program entry, and the relationship of individual's² offense to the responsibilities of the applicable position;

(B) consider the individual's employment history, letters of recommendation, certificates documenting participation in substance abuse programs, successful participating in job preparation and educational programs, and other relevant mitigating evidence; and

(C) consider any additional information the Corporation determines necessary for safety and soundness.

(8) Scope of employment

With respect to an approved consent application filed by an insured depository institution or depository institution holding company on behalf of an individual, if the Corporation determines it appropriate, such approved consent application shall allow the individual to work for the same employer (without restrictions on the location) and across positions, except that the prior consent of the Corporation (which may require a new application) shall be required for any proposed significant changes in the individual's security-related duties or responsibilities, such as promotion to an officer or other positions that the employer determines will require higher security screening credentials.

(9) Coordination with the NCUA

In carrying out this section, the Corporation shall consult and coordinate with the National Credit Union Administration as needed to promote consistent implementation where appropriate.

(g) Definitions

In this section:

(1) Consent application

The term "consent application" means an application filed with Corporation² by an indi-

vidual (or by an insured depository institution or depository institution holding company on behalf of an individual) seeking the written consent of the Corporation under subsection (a)(1).

(2) Criminal offense involving dishonesty

The term "criminal offense involving dishonesty"—

(A) means an offense under which an individual, directly or indirectly—

(i) cheats or defrauds; or

(ii) wrongfully takes property belonging to another in violation of a criminal statute;

(B) includes an offense that Federal, State, or local law defines as dishonest, or for which dishonesty is an element of the offense; and

(C) does not include—

(i) a misdemeanor criminal offense committed more than one year before the date on which an individual files a consent application, excluding any period of incarceration; or

(ii) an offense involving the possession of controlled substances.

(3) Pretrial diversion or similar program

The term "pretrial diversion or similar program" means a program characterized by a suspension or eventual dismissal or reversal of charges or criminal prosecution upon agreement by the accused to restitution, drug or alcohol rehabilitation, anger management, or community service.

(Sept. 21, 1950, ch. 967, §2[19], 64 Stat. 893; Pub. L. 101-73, title IX, §910(a), Aug. 9, 1989, 103 Stat. 477; Pub. L. 101-647, title XXV, §2502(a), Nov. 29, 1990, 104 Stat. 4860; Pub. L. 102-550, title XV, §1505, Oct. 28, 1992, 106 Stat. 4055; Pub. L. 103-322, title XXXII, §320605, Sept. 13, 1994, 108 Stat. 2119; Pub. L. 109-351, title VII, §710(a), Oct. 13, 2006, 120 Stat. 1990; Pub. L. 111-203, title III, §363(8), July 21, 2010, 124 Stat. 1554; Pub. L. 117-263, div. E, title LVII, §5705(a), Dec. 23, 2022, 136 Stat. 3411.)

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REFERENCES IN TEXT

Section 1008 of title 18, referred to in subsec. (a)(2)(A)(i)(I), was repealed by Pub. L. 101-73, title IX, §961(g)(1), Aug. 9, 1989, 103 Stat. 500.

Sections 25 and 25A of the Federal Reserve Act, referred to in subsec. (d)(1), are classified to subchapters I (§601 et seq.) and II (§611 et seq.), respectively, of chapter 6 of this title.

The Civil Rights Act of 1964, referred to in subsec. (f)(7), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2022—Subsec. (c). Pub. L. 117-263, §5705(a)(1), added subsec. (c).

Subsecs. (f), (g). Pub. L. 117-263, §5705(a)(2), added subsecs. (f) and (g).

2010—Subsec. (e). Pub. L. 111-203 substituted "Board of Governors of the Federal Reserve System" for "Director of the Office of Thrift Supervision" in two places.

²So in original. Probably should be preceded by "the".

2006—Subsecs. (d), (e). Pub. L. 109-351 added subsecs. (d) and (e).

1994—Subsec. (a)(2)(A)(i)(I). Pub. L. 103-322 substituted “1517, 1956, or 1957” for “or 1956”.

1992—Subsec. (a)(1)(A). Pub. L. 102-550 inserted “or money laundering” after “breach of trust”.

1990—Subsec. (a). Pub. L. 101-647 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Except with the prior written consent of the Corporation—

“(1) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured depository institution; and

“(2) an insured depository institution may not permit such participation.”

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: “Except with the written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured bank who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than \$100 for each day this prohibition is violated, which the Corporation may recover for its use.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

PROVISIONS NOT REPEALED, MODIFIED OR AFFECTED

Nothing contained in sections 201 to 205 and 207 of Pub. L. 89-695 amending sections 1813 and 1817 to 1820 and repealing section 77 of this title to be construed as repealing, modifying, or affecting this section, see section 206 of Pub. L. 89-695, set out as a note under section 1813 of this title.

§ 1829a. Participation by State nonmember insured banks in lotteries and related activities

(a) Prohibited activities

A State nonmember insured bank may not—

- (1) deal in lottery tickets;
- (2) deal in bets used as a means or substitute for participation in a lottery;
- (3) announce, advertise, or publicize the existence of any lottery; or
- (4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A State nonmember insured bank may not permit—

- (1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a), or
- (2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a).

(c) Definitions

As used in this section—

- (1) The term “deal in” includes making, taking, buying, selling, redeeming, or collecting.
- (2) The term “lottery” includes any arrangement, other than a savings promotion raffle,

whereby three or more persons (the “participants”) advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the “winners”) will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection;

(B) a game, race, or contest; or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) The term “lottery ticket” includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility), of becoming a winner in a lottery.

(4) The term “savings promotion raffle” means a contest in which the sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account or other savings program, where each ticket or entry has an equal chance of being drawn, such contest being subject to regulations that may from time to time be promulgated by the appropriate prudential regulator (as defined in section 5481 of this title).

(d) Lawful banking services connected with operation of lottery

Nothing contained in this section prohibits a State nonmember insured bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Board of Directors shall prescribe such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(Sept. 21, 1950, ch. 967, §2[20], as added Pub. L. 90-203, §3, Dec. 15, 1967, 81 Stat. 610; amended Pub. L. 103-325, title VI, §602(a)(51), Sept. 23, 1994, 108 Stat. 2290; Pub. L. 113-251, §3(c), Dec. 18, 2014, 128 Stat. 2889.)

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AMENDMENTS

2014—Subsec. (c)(2). Pub. L. 113-251, §3(c)(1), inserted “, other than a savings promotion raffle,” before “whereby” in introductory provisions.

Subsec. (c)(4). Pub. L. 113-251, §3(c)(2), added par. (4).
1994—Subsec. (a)(3). Pub. L. 103-325 inserted “or” at end.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90-203, set out as a note under section 25a of this title.