§ 3412. Use of information

(a) Transfer of financial records to other agencies or departments; certification

Financial records originally obtained pursuant to this chapter shall not be transferred to another agency or department unless the transferring agency or department certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department.

(b) Mailing of copy of certification and notice to customer

When financial records subject to this chapter are transferred pursuant to subsection (a) of this section, the transferring agency or department shall, within fourteen days, send to the customer a copy of the certification made pursuant to subsection (a) of this section and the following notice, which shall state the nature of the law enforcement inquiry with reasonable specificity: ''Copies of, or information contained in, your financial records lawfully in possession of have been furnished to pursuant to the Right of Financial Privacy Act of 1978 [12 U.S.C. 3401 et seq.] for the following purpose: . If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974 [5 U.S.C. 552a].''

(c) Court-ordered delays in mailing

Notwithstanding subsection (b) of this section, notice to the customer may be delayed if the transferring agency or department has obtained a court order delaying notice pursuant to section 3409(a) and (b) of this title and that order is still in effect, or if the receiving agency or department obtains a court order authorizing a delay in notice pursuant to section 3409(a) and (b) of this title. Upon the expiration of any such period of delay, the transferring agency or department shall serve to the customer the notice specified in subsection (b) of this section and the agency or department that obtained the court order authorizing a delay in notice pursuant to section 3409(a) and (b) of this title shall serve to the customer the notice specified in section 3409(b) of this title.

(d) Exchanges of examination reports by supervisory agencies; transfer of financial records to defend customer action; withholding of information

Nothing in this chapter prohibits any supervisory agency from exchanging examination reports or other information with another supervisory agency. Nothing in this chapter prohibits the transfer of a customer's financial records needed by counsel for a Government authority to defend an action brought by the customer. Nothing in this chapter shall authorize the withholding of information by any officer or employee of a supervisory agency from a duly authorized committee or subcommittee of the Congress.

(e) Exchange of records, reports, or other information

Notwithstanding section 3401(6)[1] of this title or any other provision of law, the exchange of financial records, examination reports or other information with respect to a financial institution, holding company, or any subsidiary of a depository institution or holding company, among and between the five member supervisory agencies of the Federal Financial Institutions Examination Council, the Securities and Exchange Commission, and the Commodity Futures Trading Commission is permitted.

(f) Transfer to Attorney General or Secretary of the Treasury

(1) In general

Nothing in this chapter shall apply when financial records obtained by an agency or department of the United States are disclosed or transferred to the Attorney General or the Secretary of the Treasury upon the certification by a supervisory level official of the transferring agency or department that—

(A) there is reason to believe that the records may be relevant to a violation of Federal criminal law; and

(B) the records were obtained in the exercise of the agency's or department's supervisory or regulatory functions.

(2) Limitation on use

Records so transferred shall be used only for criminal investigative or prosecutive purposes, for civil actions under section 1833a of this title, or for forfeiture under sections[2] 981 or 982 of title 18 by the Department of Justice and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury and shall, upon completion of the investigation or prosecution (including any appeal), be returned only to the transferring agency or department. No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.

(Pub. L. 95–630, title XI, § 1112, Nov. 10, 1978, 92 Stat. 3705; Pub. L. 97–320, title IV, § 432(a), Oct. 15, 1982, 96 Stat. 1527; Pub. L. 100–690, title VI, § 6186(b), Nov. 18, 1988, 102 Stat. 4357; Pub. L. 101–73, title IX, § 944, Aug. 9, 1989, 103 Stat. 498; Pub. L. 102–242, title IV, § 411(1), Dec. 19, 1991, 105 Stat. 2375; Pub. L. 102–550, title XV, § 1516, title XVI, § 1606(b), Oct. 28, 1992, 106 Stat. 4059, 4087; Pub. L. 106–102, title II, § 231(b)(2), title VII, § 727(b)(2), Nov. 12, 1999, 113 Stat. 1407, 1475.)

REFERENCES IN TEXT

The Right of Financial Privacy Act of 1978, and the Financial Privacy Act of 1978, referred to in subsec. (b), both probably mean title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, known as the Right to Financial Privacy Act of 1978, which is classified generally to this chapter (§ 3401 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

The Privacy Act of 1974, referred to in subsec. (b), is Pub. L. 93–579, Dec. 31, 1974, 88 Stat. 1896, which enacted

[1] See References in Text note below.

[2] So in original. Probably should be ''section''.

section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5.

Section 3401(6) of this title, referred to in subsec. (e), was redesignated section 3401(7) of this title by Pub. L. 101–73, title IX, §941(1), Aug. 9, 1989, 103 Stat. 496.

AMENDMENTS

1999—Subsec. (e). Pub. L. 106–102 inserted '', examination reports'' after ''financial records'' and substituted ''provision of law,'' for ''provision of this chapter,'' and '', the Securities and Exchange Commission, and the Commodity Futures Trading Commission'' for ''and the Securities and Exchange Commission''.

1992—Subsec. (f)(1). Pub. L. 102–550, §1516(1), inserted ''or the Secretary of the Treasury'' after ''the Attorney General''.

Subsec. (f)(2). Pub. L. 102–550, §1606(b), inserted a comma before ''for civil actions'' and made technical amendment to reference to sections 981 or 982 of title 18.

Pub. L. 102–550, §1516(2), inserted ''and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury'' after ''the Department of Justice''.

1991—Subsec. (f)(2). Pub. L. 102–242 inserted ''for civil actions under section 1833a of this title, or for forfeiture under sections 981 or 982 of title 18'' after ''or prosecutive purposes'' and inserted at end ''No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.''

1989—Subsec. (e). Pub. L. 101–73, §944(1), which directed the insertion of '', holding company, or any subsidiary of a depository institution or holding company,'' after ''with respect to a depository institution'', was executed by making the insertion after ''with respect to a financial institution'', as the probable intent of Congress.

Pub. L. 101–73, §944(2), substituted ''Council and the Securities and Exchange Commission'' for ''Council''.

1988—Subsec. (f). Pub. L. 100–690 added subsec. (f).

1982—Subsec. (e). Pub. L. 97–320 added subsec. (e).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 1606(b) of Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3409, 3413 of this title; title 15 section 78u.

§3413. Exceptions

(a) Disclosure of financial records not identified with particular customers

Nothing in this chapter prohibits the disclosure of any financial records or information which is not identified with or identifiable as being derived from the financial records of a particular customer.

(b) Disclosure to, or examination by, supervisory agency pursuant to exercise of supervisory, regulatory, or monetary functions with respect to financial institutions, holding companies, subsidiaries, institution-affiliated parties, or other persons

This chapter shall not apply to the examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions, including conservatorship or receivership functions, with respect to any financial institution, holding company, subsidiary of a financial institution or holding company, institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to a financial institution, holding company, or subsidiary, or other person participating in the conduct of the affairs thereof.

(c) Disclosure pursuant to title 26

Nothing in this chapter prohibits the disclosure of financial records in accordance with procedures authorized by title 26.

(d) Disclosure pursuant to Federal statute or rule promulgated thereunder

Nothing in this chapter shall authorize the withholding of financial records or information required to be reported in accordance with any Federal statute or rule promulgated thereunder.

(e) Disclosure pursuant to Federal Rules of Criminal Procedure or comparable rules of other courts

Nothing in this chapter shall apply when financial records are sought by a Government authority under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts in connection with litigation to which the Government authority and the customer are parties.

(f) Disclosure pursuant to administrative subpena issued by administrative law judge

Nothing in this chapter shall apply when financial records are sought by a Government authority pursuant to an administrative subpena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 of title 5 and to which the Government authority and the customer are parties.

(g) Disclosure pursuant to legitimate law enforcement inquiry respecting name, address, account number, and type of account of particular customers

The notice requirements of this chapter and sections 3410 and 3412 of this title shall not apply when a Government authority by a means described in section 3402 of this title and for a legitimate law enforcement inquiry is seeking only the name, address, account number, and type of account of any customer or ascertainable group of customers associated (1) with a financial transaction or class of financial transactions, or (2) with a foreign country or subdivision thereof in the case of a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act [12 U.S.C. 95a, 50 App. U.S.C. 5(b)]; the International Emergency Economic Powers Act (title II, Public Law 95–223) [50 U.S.C. 1701 et seq.]; or section 287c of title 22.

(h) Disclosure pursuant to lawful proceeding, investigation, etc., directed at financial institution or legal entity or consideration or administration respecting Government loans, loan guarantees, etc.

(1) Nothing in this chapter (except sections 3403, 3417 and 3418 of this title) shall apply when financial records are sought by a Government authority—