

This Document Is Presented Courtesy of



Workplace Champions Protecting Your Civil Rights®



Contact us:

1-202-331-2883

Or visit us online:

www.EmploymentLawGroup.com

The Employment Law Group, P.C., has reproduced this document from public records as an educational service to users of its Web site. With the exception of this cover page and any other work of its own authorship herein, for which it reserves all rights, The Employment Law Group disclaims all copyright interest in this public domain work. If you believe you hold a valid copyright on any material in this document and wish to assert your rights, please contact us at inquiry@EmploymentLawGroup.com.

Subtitle G—Authorizations

SEC. 2559. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) **ADDITIONAL APPROPRIATION FOR DEPARTMENT OF JUSTICE.**—Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

“(a) **IN GENERAL.**—

“(1) **AUTHORIZATION.**—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, \$162,500,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.

“(2) **ALLOCATIONS.**—With respect to fiscal years 1991 and 1992, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

“(A) Federal Bureau of Investigation: \$78,300,000.

“(B) The offices of the United States attorneys: \$65,000,000.

“(C) The criminal division of the Department of Justice: \$8,800,000.

“(D) The civil division of the Department of Justice: \$7,000,000.

“(E) The tax division of the Department of Justice: \$3,400,000.”

(b) **ADDITIONAL APPROPRIATIONS FOR THE INTERNAL REVENUE SERVICE.**—There is authorized to be appropriated to the Internal Revenue Service, Department of the Treasury, \$16,000,000 for fiscal year 1991 for investigation of violations of the Internal Revenue Code of 1986, and related statutes, involving insured depository institutions.

(c) **ADDITIONAL FUNDS FOR THE FEDERAL JUDICIARY.**—Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

“SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.

“(a) **IN GENERAL.**—There are authorized to be appropriated to the Federal court system \$25,000,000 for fiscal year 1991 and \$28,000,000 for each of fiscal years 1992 and 1993 to carry out such system's duties under this Act.”

Subtitle H—Actions Against Persons Committing Bank Fraud Crimes

SEC. 2560. SHORT TITLE.

This subtitle may be cited as the “Financial Institutions Anti-Fraud Enforcement Act of 1990”.

Financial
Institutions
Anti-Fraud
Enforcement
Act of 1990.
12 USC 4201
note.

**CHAPTER 1—DECLARATIONS PROVIDING NEW CLAIMS TO
THE UNITED STATES****12 USC 4201. SEC. 2561. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS.**

(a) **IN GENERAL.**—Any person may file a declaration of a violation giving rise to an action for civil penalties under section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(b) **PLACE OF FILING.**—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

12 USC 4202. SEC. 2562. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 2561 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a violation giving rise to an action for civil penalties under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;

(3) contain at least 1 new factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a violation described in paragraph (2) known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

12 USC 4203. SEC. 2563. CONFIDENTIALITY OF DECLARATIONS.

(a) **PERIOD OF CONFIDENTIALITY.**—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 2561 until—

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 2566(b);

(2) the declarant receives notice of an award pursuant to section 2566(c); or

(3) the declarant is granted a contract to pursue an action under section 2565(b) or 2567.

(b) **MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.**—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is

required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) **LOSS OF RIGHTS.**—A declarant who discloses, except as provided by this title, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. 2564. INELIGIBILITY TO FILE VALID DECLARATIONS.

12 USC 4204.

(a) **IN GENERAL.**—A declaration filed pursuant to section 811 and in accordance with sections 2562 and 2563 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18, United States Code, or any of the sections of title 18, United States Code, referred to in section 951(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) who withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) **DEFINITION.**—For the purposes of subsection (a)(5), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) **NOTICE OF INVALIDITY.**—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 2562, or that a declaration has been disclosed in violation of section 2563, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 2565 or 2566.

12 USC 4205.

SEC. 2565. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS, AWARDS.

(a) **IN GENERAL.**—A person who has filed a declaration that meets the requirements of sections 2561 through 2564 shall have the rights stated in this section.

(b) **CIVIL ACTION.**—If the Attorney General determines that a cause of action referred to in section 2561 based on the declaration should be referred to private counsel pursuant to chapter 4, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) **CRIMINAL CONVICTION.**—(1) When the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 2561, the declarant shall have the right to receive not less than \$5,000 and not more than \$100,000, any such award to be paid from the Financial Institution Information Award Fund established under section 2569.

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government's case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

(d) **SHARE OF FUNDS AND ASSETS.**—(1) When the United States acquires funds or assets pursuant to the execution of a judgment, order, or settlement and the Attorney General determines that the judgment, order, or settlement was based in whole or in part on the information contained in a valid declaration filed under section 2561, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of any recovery up to the first \$1,000,000 recovered, 10 percent to 20 percent of the next \$4,000,000 recovered, and 5 percent to 10 percent of the next \$5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General's discretion, consider any appropriate factor.

(e) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

(f) APPROPRIATE FEDERAL BANKING AGENCY EXCEPTION.—For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgment, order or settlement.

SEC. 2566. RIGHTS OF DECLARANTS; NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY. 12 USC 4206.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 2561 through 2564 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) JUDGMENT, ORDER, OR SETTLEMENT.—(1) When the United States obtains a judgment, order, or settlement based in whole or in part on a valid declaration filed under section 2561, the Attorney General shall notify the declarant in writing of such fact.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under subsection (c) or (d) of section 2565 upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 2564 within the time period set forth in subsection (e), the Attorney General shall notify the declarant in writing that—

(1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(2) the declarant's allegations have not yet been addressed.

(e) **TIME FOR NOTICES.**—(1) In the case of a valid declaration filed not more than 3 years after the date of enactment of this Act, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a declaration filed more than 3 years after the date of enactment of this Act, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(f) **CONFIDENTIALITY OF NOTICES.**—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 2563.

12 USC 4207.

SEC. 2567. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) **NOTIFICATION.**—(1) If, pursuant to section 2566(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 2566(d)(2), and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) **CONTENTS OF RESPONSE.**—In response to a notification under subsection (a)(1), the Attorney General shall—

- (1) grant a contract pursuant to chapter 4; or
- (2) proceed with an action.

(c) **GRANT OF CONTRACT.**—If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

12 USC 4208.

SEC. 2568. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 2566.

12 USC 4209.

SEC. 2569. FINANCIAL INSTITUTION INFORMATION AWARD FUND.

(a) **ESTABLISHMENT.**—There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section 2565(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund such funds as are necessary to maintain the Fund at a level not to exceed \$5,000,000.

SEC. 2570. SOURCES OF PAYMENTS TO DECLARANTS.

12 USC 4210.

Notwithstanding any other law, an award under this title may be paid to a declarant, or to an individual providing information, from the amounts recovered through civil actions based in whole or in part on the information provided in a valid declaration under this title.

SEC. 2571. GOVERNMENT ACCOUNTABILITY; PUBLIC REPORTS ON PROCESSING OF DECLARATIONS. 12 USC 4211.

(a) **IN GENERAL.**—In addition to the written statements of reasons provided individual declarants under section 2566, on the date that is 6 months after the date of enactment of this Act, and at the end of each 6-month period thereafter during which this chapter is in effect, the Attorney General shall compile a public report on the processing of declarations under this chapter.

(b) **CONTENTS OF REPORT.**—The report required by subsection (a) shall state—

(1) the number of declarations filed within the relevant period;

(2) the number of declarations found invalid under sections 2562, 2563, and 2564;

(3) the number of valid declarations processed and their present status, including whether or not they have been reviewed and if they have been reviewed what determination was reached;

(4) the number and amounts of all rewards paid to declarants under this chapter; and

(5) the number of convictions attributable in whole or in part to valid declarations filed under this chapter and the number and dollar amounts of all monetary recoveries, criminal or civil, attributable in whole or in part to valid declarations filed under this chapter.

(c) **CONFIDENTIALITY.**—Notwithstanding any other law, in compiling the report required by subsection (a), the Attorney General may take all steps necessary to guard against the disclosure of any information that could in any way prejudice a current criminal or civil investigation or proceeding.

SEC. 2572. PROTECTION FOR DECLARANTS.

12 USC 4212.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 2573. PROMULGATION OF REGULATIONS.

12 USC 4213.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 2—DECLARATIONS PROVIDING THE UNITED STATES WITH NEW INFORMATION CONCERNING THE RECOVERY OF ASSETS**SEC. 2576. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS IDENTIFYING SPECIFIC ASSETS.** 12 USC 4221.

(a) **IN GENERAL.**—After the United States obtains a final judgment or settlement in any action referred to in section 2561, any person may file a declaration identifying specific assets which might be

recovered by the United States in satisfaction of that judgment or settlement.

(b) **PLACE OF FILING.**—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

12 USC 4222.

SEC. 2577. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 2576 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section 2576.

12 USC 4223.

SEC. 2578. CONFIDENTIALITY OF DECLARATIONS.

(a) **PERIOD OF CONFIDENTIALITY.**—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 2576 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 2581(b);

(2) the declarant receives notice of an award pursuant to section 2581(c); or

(3) the declarant is granted a contract to pursue an action under section 2580(b) or 2582.

(b) **MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.**—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) **LOSS OF RIGHTS.**—A declarant who discloses, except as provided by this chapter, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

12 USC 4224.

SEC. 2579. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) **IN GENERAL.**—A declaration filed pursuant to section 2576 and in accordance with sections 2577 and 2578 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18, United States Code, or any of the sections of title 18, United States Code, referred to in section 2561, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) who withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration identifies an asset or assets the nature, location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) **DEFINITION.**—For the purposes of subsection (a)(5), the term “original source” means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) **NOTICE OF INVALIDITY.**—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 2577, or that a declaration has been disclosed in violation of section 2578, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 2580 or 2581.

SEC. 2580. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS, AWARDS. 12 USC 4225.

(a) **IN GENERAL.**—A person who has filed a declaration that meets the requirements of sections 2576 through 2579 shall have the rights stated in this section.

(b) **CIVIL ACTION.**—If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to chapter 4, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) **SHARE OF ASSETS.**—When the United States recovers any asset or assets specifically identified in a valid declaration filed under section 2576 and the Attorney General determines that the asset or assets would not have been recovered if the declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of any recovery up to the first \$1,000,000 recovered, 10 percent to 20 percent of the next \$4,000,000 recovered, and 5 percent to 10 percent of the next \$5,000,000 recovered.

(d) **PROHIBITION OF DOUBLE AWARDS.**—(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

(e) **APPROPRIATE FEDERAL BANKING AGENCY EXCEPTION.**—For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgement, order, or settlement.

12 USC 4226.

SEC. 2581. RIGHTS OF DECLARANTS; NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) **IN GENERAL.**—A person who has filed a declaration that meets the requirements of sections 2576 through 2579 shall have the rights stated in this section.

(b) **NOTICE OF DECISION NOT TO PURSUE.**—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) **JUDGMENT, ORDER, OR SETTLEMENT.**—(1) When the United States obtains a final judgment, order, or settlement transferring to the United States title to an asset or assets identified in a valid declaration filed under section 831, the Attorney General shall notify the declarant in writing of the entry of the judgment, order, or settlement.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 2580(c) upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) **NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.**—(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 2579 within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) **CONFIDENTIALITY OF NOTICES.**—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 2578.

SEC. 2582. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR. 12 USC 4227.

(a) **NOTIFICATION.**—(1) If, pursuant to section 2581(d)(1)(B), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 2581(d)(1)(B), and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) **CONTENTS OF RESPONSE.**—In response to a notification under subsection (a)(1), the Attorney General shall—

- (1) grant a contract pursuant to chapter 4; or
- (2) proceed with an action.

(c) **GRANT OF CONTRACT.**—If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. 2583. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL. 12 USC 4228.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 2581.

SEC. 2584. PROTECTION FOR DECLARANTS. 12 USC 4229.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 2585. PROMULGATION OF REGULATIONS. 12 USC 4230.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 3—REWARDS FOR INFORMATION LEADING TO RECOVERIES, CIVIL PENALTIES, OR PROSECUTIONS

SEC. 2586. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

Section 34(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)) is amended—

- (1) in paragraph (1) by striking “, in an amount that exceeds \$50,000,”; and
- (2) by amending paragraph (2) to read as follows:
“(2) a forfeiture under section 981 or 982 of title 18, United States Code, that arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation”.

SEC. 2587. REWARD FOR INFORMATION LEADING TO POSSIBLE PROSECUTION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3059 the following new section:

“§ 3059A. Special rewards for information relating to certain financial institution offenses

“(a)(1) In special circumstances and in the Attorney General’s sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1032, 1341, 1343, or 1344 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

“(2) The amount of a payment under paragraph (1) shall not exceed \$50,000 and shall be paid from the Financial Institution Information Award Fund established under section 2569 of the Financial Institutions Anti-Fraud Enforcement Act of 1990.

“(b) A person is not eligible for a payment under this subsection (a) if—

“(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

“(2) the furnished information consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information;

“(3) the person is an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) which withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) who such party owed a fiduciary duty to disclose;

“(4) the person is a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

“(5) the person knowingly participated in the violation of the section with respect to which the payment would be made.

“(c) For the purposes of this subsection (b)(2), the term ‘original source’ means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

“(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

“(e)(1) A person who—

“(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and

conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

“(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution, may, in a civil action, obtain all relief necessary to make the person whole.

“(2) Relief under paragraph (1) shall include—

“(A)(i) reinstatement with the same seniority status;

“(ii) 2 times the amount of back pay plus interest; and

“(iii) interest on the backpay,

that the plaintiff would have had but for the discrimination; and

“(B) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney’s fees.”.

(b) **TECHNICAL AMENDMENT.**—The chapter heading for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059 the following new item:

“3059A. Special rewards for information relating to certain financial institution offenses”.

CHAPTER 4—USE OF PRIVATE LEGAL RESOURCES

SEC. 2588. AUTHORITY TO ENTER INTO CONTRACTS FOR PRIVATE COUNSEL. 12 USC 4241.

(a) **IN GENERAL.**—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section 2561 or section 2580.

(b) **TERMS AND CONDITIONS.**—Each contract under subsection (a) shall include the provisions described in section 2591 and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States.

(c) **LIMITATION OF FEE.**—The amount of the contingency fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the contingency fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

(d) **CONTINGENT FEES.**—Notwithstanding section 3302(b) of title 31, United States Code, a contract under this section shall provide that a fee that the United States pays private counsel for services is payable from the amount recovered and shall be based on a percentage of the civil penalties or assets recovered.

SEC. 2589. CONTRACT DECISIONS NONREVIEWABLE.

12 USC 4242.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the Attorney General’s decision to refuse to enter into a contract for legal services referred to in section 2588.

12 USC 4243. SEC. 2590. REPRESENTATION.

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, private counsel retained under section 2588 may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 2591.

12 USC 4244. SEC. 2591. CONTRACT PROVISIONS.

A contract made with a private counsel under section 2588 shall include—

- Reports.
- (1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;
 - (2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating to matters handled pursuant to the contract during the preceding month and the progress made during that period; and
 - (3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

12 USC 4245. SEC. 2592. COUNTERCLAIMS.

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 2588 may not be asserted unless the counterclaim has been served directly on the Attorney General and the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

12 USC 4246. SEC. 2593. AWARDS OF COSTS AND FEES TO PREVAILING PLAINTIFF.

When the United States, through private counsel retained under this chapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees and other expenses of litigation as part of the costs.

12 USC 4247. SEC. 2594. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

Subtitle I—Technical and Miscellaneous Amendments

SEC. 2595. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO REFERENCES TO BANKING INSTITUTIONS AND AGENCIES.

(a) IN GENERAL.—

(1) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(A) by inserting “depository institution holding company,” before “national bank” the 1st place such term appears in the 1st sentence;