No. 23-1095

In the Supreme Court of the United States

PATRICK D. THOMPSON,

Petitioner,

V.

UNITED STATES,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

BRIEF FOR PETITIONER

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QUESTION PRESENTED

Whether 18 U.S.C. § 1014, which prohibits making a "false statement" for the purpose of influencing certain financial institutions and federal agencies, also prohibits making a statement that is misleading but not false.

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BRIEF FOR PETITIONER

Petitioner Patrick D. Thompson respectfully requests that this Court reverse the judgment of the U.S. Court of Appeals for the Seventh Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals is published at 89 F.4th 1010 (7th Cir. 2024). Pet. App 2a. The opinion of the District Court is unpublished but is available at 2022 WL 1908896. Pet. App. 24a.

JURISDICTION

The judgment of the Court of Appeals was entered on January 8, 2024. The certiorari petition was filed on April 5, 2024. This Court granted certiorari on October 4, 2024. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTE INVOLVED

18 U.S.C. § 1014 provides in relevant part: "Whoever knowingly makes any false statement or report … for the purpose of influencing in any way the action of [several specified federal agencies and financial institutions] shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both."

The complete text of 18 U.S.C. § 1014 is reproduced in the Appendix to this brief.

STATEMENT

Some questions are easily answered just by reading the statute. 18 U.S.C. § 1014 prohibits making a "false statement." To sustain a conviction under section 1014, must the statement be false? The statute answers this one: Yes.

1. In 2011, Patrick Thompson sought to refinance the mortgages on his home and rental properties with the Washington Federal Bank for Savings. Soon after, he borrowed $110,000 from Washington Federal to make an equity contribution to the law firm he was joining. Pet. App. 3a. Thompson and Washington Federal agreed to roll that debt into the refinanced mortgages when they were issued. Washington Federal accordingly entered the $110,000 loan in its records as a mortgage loan and sent Thompson an IRS Form 1098, the form on which taxpayers report mortgage interest. *Id.* at 27a. Despite Thompson's efforts, however, Washington Federal never refinanced his mortgages. *Id.*

In 2013, Thompson borrowed another $20,000 from Washington Federal, and in 2014 another $89,000, for a total of $219,000 in loans. *Id.* at 3a.

Washington Federal failed in 2017 and was taken over by the Federal Deposit Insurance Corporation. *Id.* at 4a. The FDIC hired a firm called Planet Home Lending to collect Thompson's loans. *Id.* Planet sent Thompson an invoice in February 2018 stating that his loan balance was $269,120.58—the principal amount of $219,000 plus a bit more than $50,000 in accumulated interest. *Id.*

Soon after receiving the invoice, Thompson called Planet's customer service line to ask for help in fig-

uring out the balance of his loans. *Id.* at 4a, 30a. During the call, which was recorded by Planet, Thompson expressed his utter confusion:

> I have no idea, the numbers that you've sent me shows that I have a loan for $269,000 dollars. I[ ] borrowed $100,000 dollars, and it actually never was able to close the loan. I[ ] was trying – to [ ]close this loan. I signed a Promissory Note. I have no – for $100,000 dollars in ... 2011, umm and – I've been trying to – Mr. Gembara, who is deceased now, who was assuring me we would be closing all the paperwork and documentation and ... handle the closing for the last seven years. And I have all kinds of e-mails, and I – I have no idea where the 269 number comes from.

Id. at 30a-31a.

Thompson asked Planet's customer service representative to walk him through the loan documentation, so that he could understand exactly how much he owed:

> And so I don't know if it's you guys now that I need to ... talk to and walk through, but I have no idea what paperwork you have, and I'd like to see it cause this doesn't match with anything that I have.

Id. at 31a.

Thompson then realized that he misspoke when he said the initial loan was for $100,000. He promptly corrected himself:

> I mean, I borrowed the money, I owe the money—but I borrowed $100 thou—$110—I think it

> was $110,000 … I want to quickly resolve all this, and—and—you know, what I owe.

Id. He read the amount on Planet's invoice and said, "I dispute that." *Id.*

A week later, Thompson received a call from two FDIC contractors. *Id.* It was clear to the contractors that Thompson did not realize how much he owed. "You couldn't sense that he was, you know, surprised or anything," one of them testified. *Id.* at 32a. "But, obviously, he didn't realize—I don't think he realized it was that much." *Id.* In the contractors' log of the call they noted that "Mr. Thompson spoke about his personal debt [of] 110,000. John Gembara [the president of Washington Federal] loaned him 110,000 for home improvement, which was to be rolled up into his home loan (Bank was to do a term loan) …. He is disputing his balance and is sending us the documentation." *Id.*

One of the contractors testified that their conversation with Thompson was about amounts that he borrowed, rather than amounts that he owed. *Id.* The contractor confirmed that "Thompson did not say he only owed $110,000 and that any higher amount was incorrect." *Id.* at 32a-33a. The other contractor likewise testified that he did not recall Thompson saying that "he 'only borrowed $110,000' or that 'I only owe $110,000 and no other amount.'" *Id.* at 33a.

In late 2018, Thompson and the FDIC agreed to settle for $219,000, the principal amount of the loans. *Id.* at 5a. (Because Washington Federal had failed to keep proper records, the FDIC was worried that it might not be able to collect in a lawsuit. *Id.*) Thompson paid off the $219,000.

More than two years later, Thompson was charged with two counts of violating 18 U.S.C. § 1014. *Id.* at 6a. Count 1 alleged that in his phone call with Planet Home Lending, Thompson falsely stated that he only owed $100,000 or $110,000 to Washington Federal and that any higher amount was incorrect. *Id.* Count 2 alleged that Thompson made the same statement to the FDIC, and that he also falsely stated that the first loan was to fund home improvements. *Id.*[1]

After a jury trial, Thompson was convicted on both counts. *Id.* On count 2, the jury returned a special verdict finding that Thompson falsely stated that he "only owed $110,000" and that "the funds he received from Washington Federal were for home improvement." *Id.*

Thompson moved for acquittal. The evidence presented at trial, he pointed out, was that he stated that he *borrowed* $110,000, not that he *owed* $110,000, and not that he *only* borrowed $110,000. *Id.* at 38a. He noted that his statement was literally true. He *did* borrow $110,000. *Id.* The statement was misleading, he acknowledged, because it omitted the fact that he later borrowed additional amounts, but it was not false. *Id.* at 8a. Moreover, he noted, his statement that he disputed the amount on Planet's invoice was also true. He *did* dispute the amount. *Id.* at 47a.

Thompson argued that because section 1014 prohibits only false statements, not misleading ones, the evidence presented at trial was insufficient to sus-

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[1] Thompson was also charged with and convicted of some tax offenses. He did not appeal these convictions.

tain the conviction. *Id.* at 46a-47a. In response, the government recognized that Thompson's statements were literally true but argued that they were nevertheless prohibited by section 1014. The prosecutor contended: "Here, you have an individual who tells agents of the FDIC that I borrowed $110,000. That, while literally true, is not the whole story because we know that he received $219,000, and we know that he knew that interest was accruing." JA 144.

2. The District Court denied Thompson's motion for acquittal. Pet. App. 24a-89a. The court rejected Thompson's argument that section 1014 prohibits only false statements. *Id.* at 46a-56a.

The District Court observed: "Thompson reasons that because the only evidence produced at trial was of statements Thompson made that were literally true—that he borrowed $110,000 and disputed borrowing $269,000—said statements cannot sustain a conviction under Section 1014." *Id.* at 46a-47a. But the court concluded that "Thompson cites numerous cases, none of which persuade the Court that literal falsity is required for a Section 1014 charge in the Seventh Circuit." *Id.* at 47a.

The District Court acknowledged that the law was different in the Sixth Circuit, which interprets section 1014 to prohibit only statements that are false, and not statements that are merely misleading. *Id.* at 52a (citing *United States v. Kurlemann*, 736 F.3d 439 (6th Cir. 2013)). "Admittedly," the court conceded, "if *Kurlemann* were the law in the Seventh Circuit, Thompson's argument would have more traction. But *Kurlemann* is an out-of-circuit case, and Thompson has failed to direct the Court to a Su-

preme Court case or Seventh Circuit case that holds that a Section 1014 conviction requires a literally false statement." *Id.*

After discussing several Seventh Circuit decisions, the District Court concluded that "in the Seventh Circuit, literal falsity is not required to sustain a conviction under Section 1014." *Id.* at 55a.

The District Court explicitly refrained from deciding whether Thompson's statements were true or false, because under its view of the law, his statements did not need to be false to sustain his conviction. *Id.* at 56a ("Because the Court finds that literal falsity is not required to sustain a Section 1014 conviction, the Court does not address the Government's argument that Thompson's statements were literally false.").

3. The Court of Appeals affirmed. *Id.* at 2a-23a.

The Court of Appeals held that under Seventh Circuit precedent, "§ 1014 criminalizes misleading representations." *Id.* at 9a (citing *United States v. Freed*, 921 F.3d 716 (7th Cir. 2019)).

The Court of Appeals recognized, as had the District Court, that "the Sixth Circuit has concluded that Congress did not intend to reach misleading statements in 18 U.S.C. § 1014." *Id.* at 11a (citing *Kurlemann*, 736 F.3d at 444-48). But the Court of Appeals held otherwise. "In this circuit," the court concluded, "literal truth is not a defense to a § 1014 charge." *Id.* at 12a.

Like the District Court, the Court of Appeals explicitly refrained from deciding whether Thompson's statements were true or false, because under its view of the law, it made no difference. *Id.* at 9a ("[W]e

need not decide whether Thompson's statements were literally true because his argument runs head-first into our precedent.").

SUMMARY OF ARGUMENT

Section 1014 prohibits only false statements, not statements that are true but misleading.

A. The text of section 1014 simply prohibits making a "false statement." It does not prohibit making a statement that is true but misleading.

"False" and "misleading" mean different things. A statement is false if it is untrue or erroneous. A statement is misleading if, whether true or false, it leads the listener to form a mistaken impression. As the Court has long recognized, a true statement can be misleading.

The government nevertheless contends that "Section 1014 criminalizes misleading representations and is not limited to 'literally false' statements." BIO 6. But this is not how criminal statutes are interpreted. While criminal statutes are sometimes interpreted more *narrowly* than their literal terms might suggest, when there is reason to think that Congress intended a narrower-than-literal interpretation, criminal statutes are never interpreted more *broadly* than their literal terms suggest. Section 1014 criminalizes the making of a "false statement" to any of several listed organizations "for the purpose of influencing in any way the action" of the organization. To violate this statute, a person must literally make a statement, literally to one of the listed organizations, literally for the purpose of influencing it. And the statement must literally be false.

The Court has already rejected the government's argument that section 1014 should be construed non-literally to sweep in more conduct than the statute prohibits. In *Williams v. United States*, 458 U.S. 279 (1982), the government argued that writing a bad check violates section 1014, because it implicitly constitutes a false statement that there is enough money in one's bank account to cover the check. The Court disagreed on the ground that a bad check is not literally a statement. The same reasoning applies here. Just as section 1014 requires a literal statement, it requires that the statement literally be false.

B. When section 1014 is read in context, it becomes even clearer that it prohibits only false statements. There are many other statutes in which Congress has prohibited "false or misleading" statements. The word "misleading" in all these statutes would be redundant if "false" already meant "false or misleading." In another group of statutes, Congress has prohibited, in addition to false statements, omissions that render statements misleading. If "false" meant "true but with important contextual information omitted so as to mislead listeners," all these statutory prohibitions on omissions would be surplusage.

In its brief in opposition, the government argued that it is improper to compare the text of different statutes, BIO 9, but this Court, like all courts, frequently engages in such comparisons. Indeed, the Court has used this method to construe this very statute. In *United States v. Wells*, 519 U.S. 482 (1997), the Court held that materiality is not an el-

ement of the offense described in section 1014, because other statutes expressly include a materiality requirement, but section 1014 does not.

C. Section 1014's legislative history confirms that it prohibits only false statements. Section 1014 was enacted in 1948 as part of the reorganization of the federal criminal code. It consolidated several provisions that prohibited false statements. None of these provisions prohibited misleading statements.

These predecessor statutes were enacted at various times between 1923 and 1938. During this period, Congress enacted many other statutes that prohibited "false or misleading" statements. But in the statutory predecessors to section 1014, Congress chose to prohibit only false statements.

In its brief in opposition, the government erroneously suggested that *Kay v. United States*, 303 U.S. 1 (1938), interpreted the word "false" in one of the predecessor statutes to mean "misleading" as well. BIO 8. In fact, this issue did not arise in *Kay*, which involved a defendant whose statements were undeniably false. The Court merely noted that the defendant had made these false statements for the purpose of misleading the government.

D. This Court's precedents point in the same direction. In *Williams*, where the Court held that section 1014 does not prohibit writing a bad check because a bad check is not literally a false statement, Justice Marshall's dissent correctly pointed out that the Court's reasoning implied that section 1014 does not prohibit omissions either, because omissions are also not literally false statements. *Williams*, 458

U.S. at 296 (Marshall, J., dissenting). The case Justice Marshall envisioned is precisely our case.

In *Bronston v. United States*, 409 U.S. 352 (1973), the Court held that the federal perjury statute does not prohibit testimony that is true but misleading. The Court acknowledged that in casual conversation, the deliberate fostering of a misleading impression is sometimes equated with making a false statement. But the Court relied on the text of the statute, which literally prohibited only false statements, not misleading ones. Just so here. Even if, in casual conversation, misleading statements are considered just as blameworthy as false ones, they are not prohibited by section 1014, which prohibits only false statements.

E. The government's non-literal interpretation of section 1014 would criminalize a wide range of true but misleading statements that borrowers and prospective borrowers make every day to lenders. In seeking a mortgage, a homebuyer might say "I have an offer from another lender with a lower interest rate," without disclosing that the other lender requires a larger down payment. In discussions about the repayment of a loan, a borrower might say "I can't pay now but I hope to pay in full after the new year," without disclosing that his financial prospects will be just as bad next year as this year. On the government's reading of section 1014, the homebuyer and the borrower can be sent to prison for thirty years and fined a million dollars.

F. Finally, if section 1014 were ambiguous, the rule of lenity would require interpreting it to prohibit only false statements. As the Court has explained

while interpreting this very statute, "when choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite." *Williams*, 458 U.S. at 290 (internal quotation marks omitted). There is no reasonable interpretation of section 1014 under which Congress has spoken in clear and definite language to prohibit misleading statements along with false ones.

ARGUMENT

Section 1014 prohibits only false statements, not statements that are true but misleading.

Section 1014 prohibits only false statements. The text of the statute criminalizes statements that are "false," not statements that are true but misleading. Many other federal statutes, by contrast, prohibit statements that are "false or misleading," which demonstrates that when Congress wants to criminalize misleading statements in addition to false ones, it does so explicitly. The legislative history of section 1014 confirms that it prohibits only false statements. And this Court's precedents point in the same direction.

The government's non-literal interpretation of section 1014 would criminalize an enormous range of statements that are commonplace in discussions between borrowers and lenders. Finally, if there were doubt as to whether "false" means "false" rather than "false or misleading," the rule of lenity would provide the answer.

A. Section 1014's text prohibits only false statements.

1. "[S]tatutory interpretation must begin with, and ultimately heed, what a statute actually says." *Groff v. DeJoy*, 600 U.S. 447, 468 (2023) (brackets and internal quotation marks omitted). The text of section 1014 could not be any clearer: It punishes a person who "knowingly makes any false statement." 18 U.S.C. § 1014. It does not punish a person who makes a true but misleading statement by failing to supply contextual information. The statute does not prohibit all forms of deception or every kind of fraudulent behavior. It prohibits one thing only, the making of a false statement.

"False" and "misleading" mean two different things. A statement is false if it is untrue or incorrect. *See, e.g.*, *Oxford English Dictionary* (online ed.) ("Erroneous, wrong"); *Random House Webster's College Dictionary* 444 (2005) ("not true or correct; erroneous; wrong; *a false statement*"); *Black's Law Dictionary* 540 (5th ed. 1979) ("Not true"); *Webster's New International Dictionary of the English Language* 787 (1930) ("Not according with truth or reality; not true; erroneous; as, a *false* statement"). *See also Moskal v. United States*, 498 U.S. 103, 109 (1990) (equating "false" and "incorrect" information).

By contrast, a statement is misleading if—regardless of whether it is true or false—it causes the listener to form a mistaken impression. *See, e.g.*, *Oxford English Dictionary* ("That leads someone astray, or causes someone to have an incorrect impression or belief; deceptive, delusive"); *Random House Webster's College Dictionary* at 789 ("tending to mislead; deceptive"); *Black's Law Dictionary* at

902 ("Delusive; calculated to lead astray or to lead into error"); *Webster's New International Dictionary of the English Language* at 1381 ("Leading astray; deceptive; delusive").

As the Court has long recognized, a statement can be true but misleading. *Peel v. Attorney Registration & Disciplinary Comm'n*, 496 U.S. 91, 102 (1990) (noting that a "statement, even if true, could be misleading"); *United States v. Ninety-Five Barrels (More or Less) Alleged Apple Cider Vinegar*, 265 U.S. 438, 443 (1924) ("Deception may result from the use of statements not technically false or which may be literally true.").

For example, if a lawyer advertises, "in large capital letters, that he was a member of the Bar of the Supreme Court of the United States," his statement might be true, but "such a statement could be misleading to the general public unfamiliar with the requirements of admission to the Bar of this Court." *In re R.M.J.*, 455 U.S. 191, 205 (1982). If your friend, a terrible cook, offers you something dubious to eat, and you politely say, "no thanks, I just ate," your response might well be true, but it is also misleading, because you are deceiving your friend as to the reason you are declining. If a store advertises that "everything is on sale at up to 50% off," but most items are only 1% off, the ad is true, but if customers are led to expect a greater discount, the ad is also misleading. *See Friedman v. Rogers*, 440 U.S. 1, 9 (1979) ("Obviously, much commercial speech is not provably false, or even wholly false, but only deceptive or misleading."); *Donaldson v. Read Magazine*, 333 U.S. 178, 188 (1948) ("Advertisements as a whole may be completely

misleading although every sentence separately considered is literally true.").

Indeed, members of this Court have even been known to accuse one another of writing statements that are "true but misleading." *NLRB v. Noel Canning*, 573 U.S. 513, 591 (2014) (Scalia, J., concurring in the judgment); *see also Ortwein v. Schwab*, 410 U.S. 656, 665 n.* (1973) (Marshall, J., dissenting) (describing a statement in the Court's opinion as "true, but irrelevant and misleading").

In legal usage, as in ordinary parlance, "false" and "misleading" mean different things. The text of section 1014 prohibits false statements. It does not prohibit misleading statements.

2. Although the text of section 1014 prohibits only false statements, not misleading ones, the government nevertheless contends that "Section 1014 criminalizes misleading representations and is not limited to 'literally false' statements." BIO 6.

This is not how statutes are interpreted, especially not criminal statutes. The "Court has traditionally exercised restraint in assessing the reach of a federal criminal statute. …. After all, crimes are supposed to be defined by the legislature, not by clever prosecutors riffing on equivocal language." *Dubin v. United States*, 599 U.S. 110, 129-30 (2023) (citations, brackets, and internal quotation marks omitted). The rationale for this principle is that "a fair warning should be given to the world in language that the common world will understand, of what the law intends to do if a certain line is passed." *Marinello v. United States*, 584 U.S. 1, 7 (2018) (internal quotation marks omitted). This

is why criminal statutes normally "should be confined to their literal terms." *Rainwater v. United States*, 356 U.S. 590, 593 (1958).

If a statute makes it a crime to do X, Y, and Z, a person must literally do X, Y, and Z before he can be convicted. Section 1014 criminalizes the making of a "false statement" to any of several listed organizations "for the purpose of influencing in any way the action" of the organization. 18 U.S.C. § 1014. To violate this statute, a person must literally make a statement. The statement must be made literally to one of the organizations listed in the statute, literally for the purpose of influencing the organization's action. And the statement must literally be false.

Of course, criminal statutes are sometimes interpreted more *narrowly* than their literal terms might suggest, where there is reason to think that Congress intended a narrower-than-literal meaning. *See, e.g.*, *Yates v. United States*, 574 U.S. 528 (2015) (holding that Congress did not intend the term "tangible object" to include a fish, even though a fish is literally a tangible object). But criminal statutes are never interpreted more *broadly* than their literal terms suggest. No one would contend, for example, that the term "tangible object" includes intangible objects, on the theory that the word "tangible" has a broader-than-literal meaning.

This is not the first time the government has urged the Court to construe section 1014 non-literally, to sweep in more conduct than the text of the statute encompasses. In *Williams v. United States*, 458 U.S. 279 (1982), the government argued that writing a bad check violates section 1014,

because it implicitly constitutes a false statement that there are sufficient funds in one's bank account to cover the check. *Id.* at 285-86. But the Court rejected the government's theory. *Id.* at 286. The Court held instead that section 1014 only prohibits literal statements. *Id.* at 284. While the government's "broader reading of § 1014 is plausible, we are not persuaded that it is the preferable or intended one," the Court explained. *Id.* at 286. "It slights the wording of the statute, for, as we have noted, a check is literally not a statement at all." *Id.* (citation and internal quotation marks omitted).

The same reasoning applies here. Just as section 1014's requirement of a "statement" must be read literally, so too must the statute's requirement that the statement be "false." As the Court explained in *Williams*, "when interpreting a criminal statute that does not explicitly reach the conduct in question, we are reluctant to base an expansive reading on inferences drawn from subjective and variable understandings." *Id.* (internal quotation marks omitted). As in *Williams*, if Congress meant to prohibit misleading statements by using only the word "false," "it did so with a peculiar choice of language." *Id.* at 287.

If the government's argument were accepted, the other elements of the offense described in section 1014 could be read non-literally as well. The statute prohibits making a false statement to any of several listed federal agencies. On the government's theory, a person could be convicted under section 1014 for a false statement to an agency that is not on the list. After all, the government could say, the list should not be taken literally.

Another element of the offense described in section 1014 is that the false statement must be made "for the purpose of influencing" one of the listed agencies. On the government's theory, a person could be convicted under section 1014 for a false statement made with some other purpose. This is why criminal statutes are interpreted literally.

The government fares no better when it grapples with the statutory text. The government argues that the statutory prohibition of *any* false statement, rather than *a* false statement, "suggests a broad meaning." BIO 7 (citation and internal quotation marks omitted). But the use of "any" cannot change the meaning of "false." Whether a statute prohibits the making of "*a* false statement" or "*any* false statement," the statement must still be false.

Rebuffed by the statute's text, the government turns to an equally unpersuasive purposivism. "It would be anomalous," the government says, "to read a law designed to protect lenders from being 'influenc[ed] in any way' as excluding misleading statements." *Id.* But Congress enacts statutes, not designs. Section 1014 does not prohibit *all* actions that influence lenders. It only prohibits false statements that do so.

B. Section 1014's context confirms that it prohibits only false statements.

If one compares the text of section 1014 with the text of other statutes, it becomes even clearer that section 1014 prohibits only false statements.

1. When Congress wants to prohibit misleading statements along with false ones, Congress does so

explicitly. For instance, 18 U.S.C. § 1038(a)(1) makes it a crime to "convey false or misleading information" under certain circumstances. The word "misleading" in section 1038(a)(1) would be redundant if "false" already meant "false or misleading."

The U.S. Code is full of statutes that likewise prohibit "false or misleading" statements. Congress, like any competent speaker of English, understands the difference between the two words. *See, e.g.*, 7 U.S.C. § 13(a)(2) (prohibiting "false or misleading" reports); 12 U.S.C. § 164(a)(1)(B) (prohibiting the submission of "any false or misleading report"); 13 U.S.C. § 305(a)(1) (prohibiting the submission of "false or misleading information"); 15 U.S.C. § 78r(a) (prohibiting "false or misleading" statements); *id.* § 1125(a)(1) (prohibiting the "false or misleading description of fact"); *id.* § 1692e (prohibiting "any false, deceptive, or misleading representation"); 18 U.S.C. § 158(a) (referring to statements "that are intentionally false or intentionally misleading"); *id.* § 1365(b) (punishing one who "renders materially false or misleading the labeling of, or container for, a consumer product"); 21 U.S.C. § 343(a) (prohibiting "false or misleading" labels); *id.* § 352(a) (prohibiting "false or misleading" labels); *id.* § 457(b) (authorizing the prohibition of "false or misleading labeling"); *id.* § 607(d) (prohibiting "false or misleading" labels); *id.* § 1036(b) (prohibiting "false or misleading" labels); 49 U.S.C. § 13708(b) (prohibiting the presentation of "false or misleading information").

In all these statutes, Congress has expressly prohibited misleading statements as well as false statements. If the word "false" meant "either false or

misleading," there would be no reason to punish misleading statements separately.

By contrast, there are many other statutes like section 1014, in which Congress has chosen to prohibit false statements but not misleading statements. *See, e.g.*, 10 U.S.C. § 931 (prohibiting "false testimony"); 13 U.S.C. § 213 (punishing one who furnishes "any false statement or false information"); 18 U.S.C. § 1018 (prohibiting a government employee from making certain statements "which he knows to be false"); *id.* § 2072 (prohibiting the issuance of "any false statistics or information"); *id.* § 2073 (prohibiting "a false report"); *id.* § 2292(a) (punishing one who "imparts or conveys or causes to be imparted or conveyed false information"); 29 U.S.C. § 1149 (prohibiting "a false statement or false representation of fact"); 46 U.S.C. § 14702 (prohibiting "a false statement or representation").

In some statutes, Congress prohibits false or misleading statements, while in other statutes, Congress prohibits only false statements. This choice of words reflects what Congress intends to punish. Congress's textual choices would be meaningless if courts could interpret the word "false" to mean "false or misleading."

2. When a statement is true but misleading, it is often because the speaker has omitted contextual information that would help the listener understand the statement. Here too, Congress distinguishes between false and misleading statements. When Congress wants to prohibit such omissions as well as false statements, Congress does so explicitly.

For example, 18 U.S.C. § 1027 punishes one who "makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact the disclosure of which is … necessary to verify, explain, clarify or check for accuracy and completeness any report." If "false" meant "true but with important contextual information omitted so that listeners might be misled," every word after the second comma in the quoted passage would be surplusage.

The U.S. Code is full of similar examples in which Congress has explicitly prohibited—in addition to false statements—omissions that render statements misleading. *See, e.g.*, 15 U.S.C. § 77k(a) (prohibiting a registration statement that "contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading"); *id.* § 77q(a)(2) (making it unlawful "to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading"); 22 U.S.C. § 618(a)(2) (punishing, in addition to one who makes false statements, one who "willfully omits a material fact or a copy of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading"); 42 U.S.C. § 1320a-8a(a)(3) (prohibiting, in addition to false statements, omissions where "the statement or representation with such omission is false or misleading").

In all these statutes, Congress has explicitly prohibited omissions that make statements misleading, as well as false statements. In section 1014, by contrast, Congress only prohibited false statements.

This Court has often noted the distinction between false statements and omissions that make statements misleading. Recently, for example, in discussing SEC Rule 10b-5, a rule that prohibits both, the Court explicitly isolated the two concepts and explained their different scope: "This Rule accomplishes two things. It prohibits 'any untrue statement of a material fact'—*i.e.*, false statements or lies. It also prohibits omitting a material fact necessary 'to make the statements made ... not misleading.'" *Macquarie Infrastructure Corp. v. Moab Partners, L.P.*, 601 U.S. 257, 263 (2024) (citation omitted). *See also Slack Technologies, LLC v. Pirani*, 598 U.S. 759, 766-67 (2023) (noting that the statute at issue "imposes liability for false statements or misleading omissions"); *Universal Health Servs., Inc. v. United States*, 579 U.S. 176, 186-87 (2016) (observing that because the False Claims Act prohibits "fraudulent" claims as well as "false" ones, "omissions can be a basis for liability if they render the defendant's representations misleading").

In short, when Congress wants to prohibit misleading statements, it does so expressly. When Congress wants to prohibit omissions that render statements misleading, it does that expressly too. But Congress did neither in section 1014. It only prohibited false statements. The obvious inference is

that section 1014 only criminalizes the making of false statements.

3. This contrast is also evident when one compares section 1014 with the federal statutes that criminalize similar conduct. Sections 1341 and 1343, the mail and wire fraud statutes, prohibit false representations to financial institutions, just like section 1014 does. But sections 1341 and 1343 are worded more broadly than section 1014. They prohibit "false *or fraudulent* pretenses, representations, or promises," unlike section 1014, which prohibits only false statements. 18 U.S.C. §§ 1341, 1343 (emphasis added). Making a false statement is only one method of committing fraud, which can also be committed by omitting facts for the purpose of misleading the victim. *See Universal Health Servs.*, 579 U.S. at 187 ("Because common-law fraud has long encompassed certain misrepresentations by omission, 'false or fraudulent claims' include more than just claims containing express falsehoods."); *Black's Law Dictionary* at 594 (defining "fraud" as deception by "false or misleading allegations, or by concealment of that which should have been disclosed"). Section 1014 prohibits a narrower range of conduct. Unlike the mail and wire fraud statutes, it prohibits only false statements, not the concealment of facts for the purpose of misleading the victim.

Similarly, section 1001 prohibits false statements to the government, just like section 1014 does. But section 1001 is worded more broadly than section 1014. It prohibits any "false, fictitious, *or fraudulent* statement." 18 U.S.C. § 1001(a)(2) (emphasis added).

Unlike section 1001, section 1014 prohibits only false statements, not statements that are fraudulent because they omit pertinent facts.

4. In its brief in opposition, the government argued that there is nothing to be learned by comparing the text of section 1014 to that of other statutes, on the theory that such a comparison is valid only between two sections of the same statute. BIO 9. But all courts, including this Court, consider the text of related statutes in determining what a statute means. Justice Scalia called this the "Related-Statutes Canon." As he explained,

> Any word or phrase that comes before a court for interpretation is part of a whole statute, and its meaning is therefore affected by other provisions of the same statute. It is also, however, part of an entire *corpus juris*. So, if possible, it should no more be interpreted to clash with the rest of that corpus than it should be interpreted to clash with other provisions of the same law.

Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 252 (2012). Throughout the U.S. Code, "false" clearly means something different from "misleading." There is no reason to think that the two words suddenly become synonyms in section 1014.

Indeed, the Court has used this interpretive method to construe this very statute. In *United States v. Wells*, 519 U.S. 482 (1997), the Court held that materiality is not an element of the offense described in section 1014. First, the Court explained, the statute itself does not mention materiality or

require that false statements be material. *Id.* at 490. Second, the Court added, other federal criminal statutes *do* include a requirement of materiality. *Id.* at 492. The Court accordingly concluded that Congress did not intend materiality to be an element of section 1014. *Id.* at 493. If this comparative analysis made sense for one element of the statute, there is no reason it suddenly loses its force for another.

The Court has interpreted many other statutes in just the same way. *See, e.g.*, *Rotkiske v. Klemm*, 589 U.S. 8, 14 (2019) (where several statutes—from a variety of contexts and titles of the U.S. Code—include a clause delaying the start of the limitations period until a violation is discovered, but the statute at issue does not, Congress must not have intended to delay the start of the limitations period); *Dean v. United States*, 581 U.S. 62, 70 (2017) (where one statute includes a restriction on a court's authority to reduce a sentence, but another does not, Congress must not have intended to include the restriction in the latter statute); *United States v. Shabani*, 513 U.S. 10, 14 (1994) (where one conspiracy statute includes an overt-act requirement and another does not, Congress must not have intended to include an overt-act requirement in the latter statute).

The same reasoning applies here. The text of section 1014 does not prohibit misleading statements or omissions. Other federal statutes *do* prohibit misleading statements and omissions. The only sensible inference is that section 1014 does not prohibit these additional categories of wrongdoing. It just prohibits statements that are false.

C. Section 1014's legislative history also confirms that it prohibits only false statements.

The text of section 1014 is so clear that there is no need to consult the statute's legislative history. *See Food Marketing Inst. v. Argus Leader Media*, 588 U.S. 427, 436 (2019). In any event, the legislative history merely confirms that the text means what it says.

1. As the Court explained in *Wells*, 519 U.S. at 492, section 1014 was enacted in 1948 as part of the reorganization of the federal criminal code. Pub. L. No. 80-772, 62 Stat. 683, 752 (1948). It consolidated thirteen provisions that had formerly been scattered throughout the U.S. Code.

Eleven of the thirteen provisions prohibited the making of false statements. (Some of the eleven also prohibited the overvaluing of property.) None of these eleven statutes prohibited making misleading statements or omitting information. *See* 7 U.S.C. § 1026(a) (1946 ed.) ("Whoever makes any material representation, knowing it to be false"); *id.* § 1514(a) (1946 ed.) ("Whoever makes any statement knowing it to be false"); 12 U.S.C. § 596 (1946 ed.) ("Whoever makes any material statement, knowing it to be false"); *id.* § 981 (1946 ed.) ("Any applicant … who shall knowingly make any false statement"); *id.* § 1122 (1946 ed.) ("Whoever makes any statement, knowing it to be false"); *id.* § 1138d(a) (1946 ed.) ("Whoever makes any material representation knowing it to be false"); *id.* § 1248 (1946 ed.) ("Any inspector … who makes any statement … knowing the same to be false"); *id.* § 1312 (1946 ed.) ("Whoever

makes any statement, knowing it to be false"); *id.* § 1441(a) (1946 ed.) ("Whoever makes any statement, knowing it to be false"); *id.* § 1467(a) (1946 ed.) ("Whoever makes any statement, knowing it to be false"); 15 U.S.C. § 616(a) (1946 ed.) ("Whoever makes any statement knowing it to be false").

The remaining two provisions only prohibited the willful overvaluing of property, without also prohibiting the making of any statements. 12 U.S.C. § 1123 (1946 ed.) ("Whoever willfully overvalues any property"); *id.* § 1313 (1946 ed.) ("Whoever willfully overvalues any property").

Section 1014 combined all these provisions into a single statute that prohibits false statements and the willful overvaluing of property for the purpose of influencing a long list of federal agencies and financial institutions. The new statute retained the "false statement" requirement that had been present in all the statutory predecessors that had concerned the making of statements. Congress did not expand the statute's coverage to include misleading statements.

Congress did make one substantive change. As the Court observed in *Wells*, three of the thirteen predecessor statutes had a materiality requirement that was not included in the consolidation. *Wells*, 519 U.S. at 492-93. But there was no change to the false statement requirement, which survived the consolidation unscathed. Section 1014, like its predecessors, thus prohibits only false statements, not misleading ones.

The eleven predecessor statutes that prohibited false statements were enacted at various times be-

tween 1923 and 1938.[2] During that period, Congress also enacted many statutes that prohibited "false or misleading" statements, including the Perishable Agricultural Commodities Act of 1930, Pub. L. No. 71-325, § 2, 46 Stat. 531, 532 (1930); the Securities Exchange Act of 1934, Pub. L. No. 73-291, § 18, 48 Stat. 881, 897-98 (1934); the Public Utility Holding Company Act of 1935, Pub. L. No. 74-333, § 16(a), 49 Stat. 803, 829-30 (1935); the Food, Drug, and Cosmetic Act of 1938, Pub. L. No. 75-717, § 602(a), 52 Stat. 1040, 1054 (1938); and a host of others too obscure to be given short titles. *See* Pub. L. No. 69-489, § 2(a), 44 Stat. 838, 838 (1926); Pub. L. No. 69-803, § 31, 44 Stat. 1424, 1439 (1927); Pub. L. No. 70-661, § 3, 45 Stat. 1079, 1080 (1929); Pub. L. No. 70-1018, § 2, 45 Stat. 1551, 1551 (1929); Pub. L. No. 71-325, § 2(4), 46 Stat. 531, 532-33 (1930); Pub. L. No. 72-

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[2] 12 U.S.C. §§ 1122, 1248, and 1312 (1946 ed.) were part of the Federal Farm Loan Act of 1923, Pub. L. No. 67-503, 42 Stat. 1454, 1460, 1468-69, 1472 (1923). 15 U.S.C. § 616(a) (1946 ed.) was part of the Reconstruction Finance Corporation Act of 1932, Pub. L. No. 72-2, 47 Stat. 5, 11 (1932). 12 U.S.C. § 1441 (1946 ed.) was part of the Federal Home Loan Bank Act of 1932, Pub. L. No. 72-304, 47 Stat. 725, 738 (1932). 12 U.S.C. § 1467(a) (1946 ed.) was part of the Home Owners' Loan Act of 1933, Pub. L. No. 73-43, 48 Stat. 128, 134 (1933). 12 U.S.C. § 1138d(a) (1946 ed.) was part of the Farm Credit Act of 1933, Pub. L. No. 73-75, 48 Stat. 257, 267-68 (1933). 12 U.S.C. § 596 (1946 ed.) was part of the 1934 amendments to the Federal Reserve Act of 1913, Pub. L. No. 73-417, 48 Stat. 1105, 1107 (1934). 12 U.S.C. § 981 (1946 ed.) was part of the Farm Credit Act of 1935, Pub. L. No. 74-87, 49 Stat. 313, 319 (1935). 7 U.S.C. § 1026(a) (1946 ed.) was part of the Bankhead-Jones Farm Tenant Act of 1937, Pub. L. No. 75-210, 50 Stat. 522, 531-32 (1937). 7 U.S.C. § 1514(a) (1946 ed.) was part of the Agricultural Adjustment Act of 1938, Pub. L. No. 75-430, 52 Stat. 31, 76 (1938).

237, ¶ 48, 47 Stat. 550, 563 (1932); Pub. L. No. 72-284, § 2, 47 Stat. 662, 663 (1932); Pub. L. No. 73-159, § 6, 48 Stat. 584, 586 (1934); Pub. L. No. 74-381, § p, 49 Stat. 911, 925 (1935); Pub. L. No. 74-621, § 3, 49 Stat. 1375, 1378 (1936); Pub. L. No. 74-702, § 1, 49 Stat. 1533, 1533 (1936); Pub. L. No. 75-328, § 11, 50 Stat. 725, 730 (1937); Pub. L. No. 75-719, § 4, 52 Stat. 1070, 1076 (1938).

When the statutory predecessors to section 1014 were enacted, Congress knew how to prohibit misleading statements, and it often did. But Congress chose not to prohibit misleading statements in the statutes that were rolled up into section 1014.

In the years since 1948, Congress has occasionally added to section 1014's list of the federal agencies and financial institutions to which the statute prohibits false statements. *See, e.g.*, Pub. L. No. 88-353, § 5, 78 Stat. 269, 269 (1964) (adding federal credit unions); Pub. L. No. 91-468, § 7, 84 Stat. 994, 1017 (1970) (adding state-chartered credit unions); Pub. L. No. 91-609, § 915, 84 Stat. 1770, 1815 (1970) (adding banks insured by the FDIC, federal home loan banks, and institutions insured by the Federal Savings and Loan Insurance Corporation); Pub. L. No. 101-73, § 962(a)(8)(B), 103 Stat. 183, 502 (1989) (adding certain banks and credit associations); Pub. L. No. 107-100, § 4(a), 115 Stat. 966, 966 (2001) (adding certain small business investment companies).

On each occasion, the relevant committees of Congress have referred to section 1014 as a statute that prohibits false statements. They have not referred to section 1014 as a statute that prohibits misleading statements. *See, e.g.*, S. Rep. No. 88-1078, at 2 (1964)

(bill would make it an offense "to make a false statement" to a federal credit union); H.R. Rep. No. 91-1457, at 21 (1970) (bill amends section 1014, "relating to false statements" to state-chartered credit unions); H.R. Rep. No. 91-1556, at 35 (1970) (bill would amend section 1014, "which provides penalties for making false statements"); H.R. Rep. No. 101-54, at 400 (1989) (bill would amend section 1014, "which deals with false statements"); S. Rep. No. 107-55, at 4 (2001) (bill would amend section 1014, "which makes it a crime to make a false statement"). Congress has consistently understood section 1014 to prohibit false statements, not misleading ones.

2. In its brief in opposition, the government claimed that *Kay v. United States*, 303 U.S. 1 (1938), interpreted the word "false" in one of section 1014's predecessor statutes to mean "misleading" as well. BIO 8. But this argument is incorrect.

In *Kay*, the Court affirmed a conviction under the Home Owners' Loan Act of 1933, one subsection of which, 12 U.S.C. § 1467(a) (1946 ed.), was one of the thirteen statutory provisions consolidated into section 1014. *Kay* includes no discussion of whether "false" means what it says ("false") or whether it also means "misleading." The petitioner in *Kay* did not contend that her statements were true, because they were blatantly false: The petitioner claimed to be owed $1,240, when in fact she was owed $435. *Kay*, 303 U.S. at 5.

The government points to two passages in *Kay* in which the words "mislead" or "misleading" appear, but on each occasion, the Court was not using that language to define the term "false." Rather, the

Court was describing the petitioner's purpose in making the false statements—to mislead the Home Owners' Loan Corporation.

First, the Court observed that "[i]t does not lie with one knowingly making false statements with intent to mislead the officials of the Corporation to say that the statements were not influential or the information not important. There can be no question that Congress was entitled to require that the information be given in good faith and not falsely with intent to mislead." *Id.* at 5-6.

Second, in holding that the petitioner lacked standing to challenge the Corporation's constitutionality, the Court said that "[w]hen one undertakes to cheat the Government or to mislead its officers, or those acting under its authority, by false statements, he has no standing to assert that the operations of the Government in which the effort to cheat or mislead is made are without constitutional sanction." *Id.* at 6. The Court added that "Congress was entitled to secure protection against false and misleading representations while the act was being administered, and the separability provision of the act, section 9, 12 U.S.C.A. § 1468, is clearly applicable." *Id.* at 7.

In these passages, the Court did not say that the Home Owners' Loan Act of 1933 prohibited misleading statements. Rather, the Court said that the petitioner had made false statements for the purpose of misleading the Corporation.

The legislative history of section 1014 thus confirms the plain meaning of the text. Before all these statutes were consolidated into section 1014, they prohibited only false statements, not misleading

ones. That did not change with the enactment of section 1014.

D. This Court's precedents point in the same direction.

The text, context, and legislative history of section 1014 all compel the conclusion that it prohibits only false statements. It comes as no surprise, then, that this Court's precedents yield the same outcome.

In *Williams*, 458 U.S. at 286, as noted above, the Court held that section 1014 does not prohibit writing a bad check, because a bad check is not literally a false statement. In dissent, Justice Marshall correctly observed that the Court's reasoning "would apply equally to material omissions or failures to disclose," because omissions and non-disclosures are also not literally false statements. *Id.* at 296 (Marshall, J., dissenting). Not a single member of the majority disagreed with this observation. The case Justice Marshall envisioned is precisely our case. Where a statement is true but misleading because the speaker fails to disclose contextual information, the speaker has not done what section 1014 prohibits, because the speaker has not made a false statement. As Judge Sutton explained for the Sixth Circuit, *Williams* "goes a long way to resolving this case." *Kurlemann*, 736 F.3d at 446.

This conclusion also accords best with *Bronston v. United States*, 409 U.S. 352 (1973), in which the Court held that 18 U.S.C. § 1621, the federal perjury statute, does not prohibit testimony that is true but misleading. The statute defined perjury as a statement that the witness "does not believe to be true." 409 U.S. at 352 n.1 (quoting the statute). The Court

acknowledged that in casual conversation, the deliberate fostering of a misleading impression might be equated with making a statement the speaker knows is false. *Id.* at 357. "But we are not dealing with casual conversation," the Court continued, "and the statute does not make it a criminal act for a witness to willfully state any material matter that *implies* any material matter that he does not believe to be true." *Id.* at 357-58.

While the perjury statute is worded differently from section 1014, and while it governs sworn rather than unsworn statements, the logic of *Bronston* applies just as well to section 1014 as it does to the perjury statute. In casual conversation, misleading statements might be considered just as blameworthy as false ones. But we are not dealing with casual conversation. We are interpreting a statute, one in which Congress deliberately punished just one kind of blameworthy conduct, not every kind. Section 1014 prohibits the making of a "false" statement, not the making of a statement that is misleading.

E. The government's non-literal interpretation of section 1014 would criminalize a great deal of everyday conduct.

The government's interpretation of section 1014 threatens to criminalize a vast range of everyday statements. When prospective borrowers seek loans, and when lenders seek to collect debts, these discussions include many assertions that may be misleading but are not false.

For example, a homebuyer seeking a mortgage with one of the financial institutions listed in section

1014 might say, "I have an offer from another lender with a lower interest rate," without disclosing that the other lender requires a larger down payment. On the government's reading of section 1014, the homebuyer has committed a felony. Her statement is not false, because she really does have an offer at a lower interest rate, but the statement is misleading, because it suggests that the other lender's offer is a better one. She is making the statement for the purpose of influencing a financial institution to lower its interest rate. The homebuyer can be sent to prison for thirty years and fined a million dollars.

Similarly, a debtor having difficulty repaying a loan to one of the financial institutions listed in section 1014 might say to the lender, "I don't have sufficient assets right now, but I hope to pay you back in full after the end of the year." This statement is not false, because the debtor really does hope to pay the debt in full after the end of the year. But if nothing is likely to happen at the end of the year to increase the debtor's ability to pay, the statement is misleading, because it leaves the impression that his prospects will be better next year than this year. The debtor made the statement for the purpose of influencing a financial institution to delay its efforts to collect the debt. On the government's view of section 1014, the debtor has committed a felony. He can be sent to prison for thirty years and fined a million dollars.

In these examples, the homebuyer and the debtor would still be felons even if their statements were not material—that is, even if no reasonable lender would care whether the homebuyer had another offer or whether the debtor's financial condition would

improve in the new year. Materiality is not an element of section 1014. *Wells*, 519 U.S. at 484. And they would still be felons even if their statements had no influence on the financial institutions. Section 1014 prohibits a statement made "for the purpose of influencing" one of the listed entities, regardless of whether the statement achieves that purpose.

Statements of this sort are commonplace. If section 1014 prohibits statements that are not false, the government will possess an extraordinary discretionary power to prosecute borrowers and prospective borrowers for engaging in everyday commercial practices. As in *Williams*, "the Government's interpretation of § 1014 would make a surprisingly broad range of unremarkable conduct a violation of federal law." *Williams*, 458 U.S. at 286.

It would be no answer for the government to disclaim any intention to prosecute such cases. As the Court has explained on several occasions, "[w]e cannot construe a criminal statute on the assumption that the Government will use it responsibly." *Dubin*, 599 U.S. at 131 (internal quotation marks omitted); *see also Marinello*, 584 U.S. at 11; *McDonnell v. United States,* 579 U.S. 550, 576 (2016). Crimes are defined by Congress, not by the Department of Justice.

F. Under the rule of lenity, if section 1014 is ambiguous, it should be read to prohibit only false statements.

Even if section 1014 were somehow ambiguous—even if "false" could mean either "false" or "true but misleading"—the rule of lenity would require interpreting the statute to prohibit only false statements.

The rule of lenity states that "ambiguities about the breadth of a criminal statute should be resolved in the defendant's favor." *United States v. Davis*, 588 U.S. 445, 464 (2019). As Chief Justice Marshall observed for the Court, the rule "is perhaps not much less old than construction itself. It is founded on the tenderness of the law for the rights of individuals; and on the plain principle that the power of punishment is vested in the legislative, not in the judicial department." *United States v. Wiltberger*, 18 U.S. 76, 95 (1820). The Court has more recently explained, in a case involving this very statute, that "when choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite." *Williams*, 458 U.S. at 290 (internal quotation marks omitted).

If there were any lingering doubt about the scope of section 1014, the rule of lenity would tip the balance in favor of interpreting the statute to prohibit only false statements. There is no reasonable construction of section 1014 under which Congress has spoken in clear and definite language to prohibit misleading statements along with false ones.

CONCLUSION

The judgment of the U.S. Court of Appeals for the Seventh Circuit should be reversed.

Respectfully submitted,

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APPENDIX

18 U.S.C.A. § 1014

Loan and credit applications generally; renewals and discounts; crop insurance

Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of the Federal Housing Administration, the Farm Credit Administration, Federal Crop Insurance Corporation or a company the Corporation reinsures, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof, or of any regional agricultural credit corporation established pursuant to law, or a Federal land bank, a Federal land bank association, a Federal Reserve bank, a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act, a Federal credit union, an insured State-chartered credit union, any institution the accounts of which are insured by the Federal Deposit Insurance Corporation, any Federal home loan bank, the Federal Housing Finance Agency, the Federal Deposit Insurance Corporation, the Farm Credit System Insurance Corporation, or the National Credit Union Administration Board, a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section

1(b) of the International Banking Act of 1978), an organization operating under section 25 or section 25(a) of the Federal Reserve Act, or a mortgage lending business, or any person or entity that makes in whole or in part a federally related mortgage loan as defined in section 3 of the Real Estate Settlement Procedures Act of 1974, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, loan, or insurance agreement or application for insurance or a guarantee, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both. The term "State-chartered credit union" includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.