

avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).

(Added Pub. L. 109–8, title IX, §907(k)(1), Apr. 20, 2005, 119 Stat. 179.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in subsecs. (b)(2) and (c), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§1 et seq.) of Title 7, Agriculture. Section 5c(c) of the Act is classified to section 7a-2(c) of Title 7. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

The Federal Deposit Insurance Corporation Improvement Act of 1991, referred to in subsec. (c), is Pub. L. 102–242, Dec. 19, 1991, 105 Stat. 2236, as amended. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

EFFECTIVE DATE

Section effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as an Effective Date of 2005 Amendment note under section 101 of this title.

§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

- (1) the date of such rejection; or
- (2) the date or dates of such liquidation, termination, or acceleration.

(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

- (1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

- (2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates.

(Added Pub. L. 109–8, title IX, §910(a)(1), Apr. 20, 2005, 119 Stat. 184.)

EFFECTIVE DATE

Section effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as an Effective Date of 2005 Amendment note under section 101 of this title.

CHAPTER 7—LIQUIDATION

SUBCHAPTER I—OFFICERS AND ADMINISTRATION

Sec. 701.	Interim trustee.
702.	Election of trustee.
703.	Successor trustee.
704.	Duties of trustee.
705.	Creditors' committee.
706.	Conversion.
707.	Dismissal of a case or conversion to a case under chapter 11 or 13.

SUBCHAPTER II—COLLECTION, LIQUIDATION, AND DISTRIBUTION OF THE ESTATE

721.	Authorization to operate business.
722.	Redemption.
723.	Rights of partnership trustee against general partners.
724.	Treatment of certain liens.
725.	Disposition of certain property.
726.	Distribution of property of the estate.
727.	Discharge.
[728.]	Repealed.]

SUBCHAPTER III—STOCKBROKER LIQUIDATION

741.	Definitions for this subchapter.
742.	Effect of section 362 of this title in this subchapter.
743.	Notice.
744.	Executory contracts.
745.	Treatment of accounts.
746.	Extent of customer claims.
747.	Subordination of certain customer claims.
748.	Reduction of securities to money.
749.	Voidable transfers.
750.	Distribution of securities.
751.	Customer name securities.
752.	Customer property.
753.	Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.

SUBCHAPTER IV—COMMODITY BROKER LIQUIDATION

761.	Definitions for this subchapter.
762.	Notice to the Commission and right to be heard.
763.	Treatment of accounts.
764.	Voidable transfers.
765.	Customer instructions.
766.	Treatment of customer property.