

under this section shall be allocated among brokers and dealers and payable by the broker or dealer (or the brokers and dealers in the particular class, as applicable).

**(3) Proportionality**

The amount due from a broker or dealer shall be in proportion to the net capital of the broker or dealer (before or after any adjustments), compared to the total net capital of all brokers and dealers (before or after any adjustments), in accordance with rules issued by the Board.

**(i) Omitted**

**(j) Rule of construction**

Nothing in this section shall be construed to render either the Board, the standard setting body referred to in subsection (a) of this section, or both, subject to procedures in Congress to authorize or appropriate public funds, or to prevent such organization from utilizing additional sources of revenue for its activities, such as earnings from publication sales, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual and perceived independence of such organization.

**(k) Start-up expenses of the Board**

From the unexpended balances of the appropriations to the Commission for fiscal year 2003, the Secretary of the Treasury is authorized to advance to the Board not to exceed the amount necessary to cover the expenses of the Board during its first fiscal year (which may be a short fiscal year).

(Pub. L. 107-204, title I, §109, July 30, 2002, 116 Stat. 769; Pub. L. 111-203, title IX, §982(h), July 21, 2010, 124 Stat. 1930.)

CODIFICATION

Section is comprised of section 109 of Pub. L. 107-204. Subsec. (i) of section 109 of Pub. L. 107-204 amended section 78m of this title.

AMENDMENTS

2010—Subsec. (c)(2). Pub. L. 111-203, §982(h)(1), substituted “subsection (j)” for “subsection (i)”.

Subsec. (d)(2). Pub. L. 111-203, §982(h)(2)(A), substituted “and among brokers and dealers, in accordance with subsection (h), and allowing for differentiation among classes of issuers, brokers and dealers, as appropriate” for “allowing for differentiation among classes of issuers, as appropriate”.

Subsec. (d)(3). Pub. L. 111-203, §982(h)(2)(B), added par. (3).

Subsecs. (h) to (k). Pub. L. 111-203, §982(h)(3), (4), added subsec. (h) and redesignated former subsecs. (h) to (j) as (i) to (k), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

**§ 7220. Definitions**

For the purposes of this subchapter, the following definitions shall apply:

**(1) Audit**

The term “audit” means an examination of the financial statements, reports, documents,

procedures, controls, or notices of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission, for the purpose of expressing an opinion on the financial statements or providing an audit report.

**(2) Audit report**

The term “audit report” means a document, report, notice, or other record—

(A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and

(B) in which a public accounting firm either—

(i) sets forth the opinion of that firm regarding a financial statement, report, notice, or other document, procedures, or controls; or

(ii) asserts that no such opinion can be expressed.

**(3) Broker**

The term “broker” means a broker (as such term is defined in section 78c(a)(4) of this title) that is required to file a balance sheet, income statement, or other financial statement under section 78q(e)(1)(A) of this title, where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

**(4) Dealer**

The term “dealer” means a dealer (as such term is defined in section 78c(a)(5) of this title) that is required to file a balance sheet, income statement, or other financial statement under section 78q(e)(1)(A) of this title, where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

**(5) Professional standards**

The term “professional standards” means—

(A) accounting principles that are—

(i) established by the standard setting body described in section 77s(b) of this title, as amended by this Act, or prescribed by the Commission under section 77s(a) of this title or section 78m(b) of this title; and

(ii) relevant to audit reports for particular issuers, brokers, or dealers, or dealt with in the quality control system of a particular registered public accounting firm; and

(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines—

(i) relate to the preparation or issuance of audit reports for issuers, brokers, or dealers; and

(ii) are established or adopted by the Board under section 7213(a) of this title, or are promulgated as rules of the Commission.

**(6) Self-regulatory organization**

The term “self-regulatory organization” has the same meaning as in section 78c(a) of this title.

(Pub. L. 107-204, title I, §110, as added Pub. L. 111-203, title IX, §982(a)(1), July 21, 2010, 124 Stat. 1927.)

#### REFERENCES IN TEXT

Section 77s(b) of this title, as amended by this Act, referred to in par. (5)(A)(i), means section 77s(b) of this title, as amended by Pub. L. 107-204.

Title II, referred to in par. (5)(B), means title II of Pub. L. 107-204, July 30, 2002, 116 Stat. 771, which enacted subchapter II of this chapter and amended sections 78c, 78j-1, 78l and 78q of this title. For complete classification of title II to the Code, see Tables.

#### EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of Title 12, Banks and Banking.

### SUBCHAPTER II—AUDITOR INDEPENDENCE

#### § 7231. Exemption authority

The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 78j-1(g) of this title, to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 7217 of this title.

(Pub. L. 107-204, title II, §201(b), July 30, 2002, 116 Stat. 772.)

#### § 7232. Study of mandatory rotation of registered public accounting firms

##### (a) Study and review required

The Comptroller General of the United States shall conduct a study and review of the potential effects of requiring the mandatory rotation of registered public accounting firms.

##### (b) Report required

Not later than 1 year after July 30, 2002, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by this section.

##### (c) Definition

For purposes of this section, the term “mandatory rotation” refers to the imposition of a limit on the period of years in which a particular registered public accounting firm may be the auditor of record for a particular issuer.

(Pub. L. 107-204, title II, §207, July 30, 2002, 116 Stat. 775.)

#### § 7233. Commission authority

##### (a) Commission regulations

Not later than 180 days after July 30, 2002, the Commission shall issue final regulations to carry out each of subsections (g) through (l) of section 78j-1 of this title.

##### (b) Auditor independence

It shall be unlawful for any registered public accounting firm (or an associated person there-

of, as applicable) to prepare or issue any audit report with respect to any issuer, if the firm or associated person engages in any activity with respect to that issuer prohibited by any of subsections (g) through (l) of section 78j-1 of this title or any rule or regulation of the Commission or of the Board issued thereunder.

(Pub. L. 107-204, title II, §208, July 30, 2002, 116 Stat. 775.)

#### § 7234. Considerations by appropriate State regulatory authorities

In supervising nonregistered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.

(Pub. L. 107-204, title II, §209, July 30, 2002, 116 Stat. 775.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 107-204, July 30, 2002, 116 Stat. 745, known as the Sarbanes-Oxley Act of 2002. For complete classification of this Act to the Code, see Tables.

### SUBCHAPTER III—CORPORATE RESPONSIBILITY

#### § 7241. Corporate responsibility for financial reports

##### (a) Regulations required

The Commission shall, by rule, require, for each company filing periodic reports under section 78m(a) or 78o(d) of this title, that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of this title that—

(1) the signing officer has reviewed the report;

(2) based on the officer’s knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer’s knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others