

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the 2nd item on page 143, the 18th item on page 167, the 7th item on page 172, and 18th item on page 190 identify a reporting provision which, as subsequently amended, is contained in subsec. (b) of this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

§ 78x. Public availability of information**(a) “Records” defined**

For purposes of section 552 of title 5 the term “records” includes all applications, statements, reports, contracts, correspondence, notices, and other documents filed with or otherwise obtained by the Commission pursuant to this chapter or otherwise.

(b) Disclosure or personal use

It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application, statement, report, contract, correspondence, notice, or other document filed with or otherwise obtained by the Commission (1) in contravention of the rules and regulations of the Commission under section 552 of title 5, or (2) in circumstances where the Commission has determined pursuant to such rules to accord confidential treatment to such information.

(c) Confidential disclosures

The Commission may, in its discretion and upon a showing that such information is needed, provide all “records” (as defined in subsection (a)) and other information in its possession to such persons, both domestic and foreign, as the Commission by rule deems appropriate if the person receiving such records or information provides such assurances of confidentiality as the Commission deems appropriate.

(d) Records obtained from foreign securities authorities

Except as provided in subsection (g), the Commission shall not be compelled to disclose records obtained from a foreign securities authority if (1) the foreign securities authority has in good faith determined and represented to the Commission that public disclosure of such records would violate the laws applicable to that foreign securities authority, and (2) the Commission obtains such records pursuant to (A) such procedure as the Commission may authorize for use in connection with the administration or enforcement of the securities laws, or (B) a memorandum of understanding. For purposes of section 552 of title 5, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(e) Freedom of Information Act

For purposes of section 552(b)(8) of title 5 (commonly referred to as the Freedom of Information Act)—

(1) the Commission is an agency responsible for the regulation or supervision of financial institutions; and

(2) any entity for which the Commission is responsible for regulating, supervising, or examining under this chapter is a financial institution.

(f) Sharing privileged information with other authorities**(1) Privileged information provided by the Commission**

The Commission shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by—

(A) any agency (as defined in section 6 of title 18);

(B) the Public Company Accounting Oversight Board;

(C) any self-regulatory organization;

(D) any foreign securities authority;

(E) any foreign law enforcement authority; or

(F) any State securities or law enforcement authority.

(2) Nondisclosure of privileged information provided to the Commission

The Commission shall not be compelled to disclose privileged information obtained from any foreign securities authority, or foreign law enforcement authority, if the authority has in good faith determined and represented to the Commission that the information is privileged.

(3) Nonwaiver of privileged information provided to the Commission**(A) In general**

Federal agencies, State securities and law enforcement authorities, self-regulatory organizations, and the Public Company Accounting Oversight Board shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by the Commission.

(B) Exception

The provisions of subparagraph (A) shall not apply to a self-regulatory organization or the Public Company Accounting Oversight Board with respect to information used by the Commission in an action against such organization.

(4) Definitions

For purposes of this subsection—

(A) the term “privilege” includes any work-product privilege, attorney-client privilege, governmental privilege, or other privilege recognized under Federal, State, or foreign law;

(B) the term “foreign law enforcement authority” means any foreign authority that is empowered under foreign law to detect, investigate or prosecute potential violations of law; and

(C) the term “State securities or law enforcement authority” means the authority of any State or territory that is empowered under State or territory law to detect, investigate, or prosecute potential violations of law.

(g) Savings provision

Nothing in this section shall—

(1) alter the Commission’s responsibilities under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as limited by section 78u(h) of this title, with respect to transfers of records covered by such statutes, or

(2) authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.

(June 6, 1934, ch. 404, title I, § 24, 48 Stat. 901; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; Pub. L. 94-29, § 19, June 4, 1975, 89 Stat. 158; Pub. L. 101-550, title II, § 202(a), Nov. 15, 1990, 104 Stat. 2715; Pub. L. 111-203, title IX, §§ 929I(a), 929K, July 21, 2010, 124 Stat. 1857, 1860; Pub. L. 111-257, § 1(a), Oct. 5, 2010, 124 Stat. 2646.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (e)(2), was in the original “this title”. See References in Text note set out under section 78a of this title.

The Right to Financial Privacy Act, referred to in subsec. (g)(1), probably means the Right to Financial Privacy Act of 1978, title XI of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§ 3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

AMENDMENTS

2010—Subsec. (d). Pub. L. 111-203, § 929K(1), substituted “subsection (g)” for “subsection (f)”.

Pub. L. 111-203, § 929I(a)(1), substituted “subsection (f)” for “subsection (e)”.

Subsec. (e). Pub. L. 111-257 added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows:

“(1) IN GENERAL.—Except as provided in subsection (g), the Commission shall not be compelled to disclose records or information obtained pursuant to section 78q(b) of this title, or records or information based upon or derived from such records or information, if such records or information have been obtained by the Commission for use in furtherance of the purposes of this chapter, including surveillance, risk assessments, or other regulatory and oversight activities.

“(2) TREATMENT OF INFORMATION.—For purposes of section 552 of title 5, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. Collection of information pursuant to section 78q of this title shall be an administrative action involving an agency against specific individuals or agencies pursuant to section 3518(c)(1) of title 44.”

Pub. L. 111-203, § 929K(2), substituted “subsection (g)” for “subsection (f)” in par. (1).

Pub. L. 111-203, § 929I(a)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 111-203, § 929K(4), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 111-203, § 929I(a)(2), redesignated subsec. (e) as (f).

Subsec. (g). Pub. L. 111-203, § 929K(3), redesignated subsec. (f) as (g).

1990—Subsec. (b). Pub. L. 101-550, § 202(a)(1), struck out at end “Nothing in this subsection shall authorize

the Commission to withhold information from the Congress.”

Subsecs. (c) to (e). Pub. L. 101-550, § 202(a)(2), added subsecs. (c) to (e).

1975—Subsec. (a). Pub. L. 94-29 substituted “For purposes of section 552 of title 5, the term ‘records’ includes all applications, statements, reports, contracts, correspondence, notices, and other documents filed with or otherwise obtained by the Commission pursuant to this chapter or otherwise” for “Nothing in this chapter shall be construed to require, or to authorize the Commission to require, the revealing of trade secrets or processes in any application, report, or document filed with the Commission under this chapter”.

Subsecs. (b), (c). Pub. L. 94-29 redesignated subsec. (c) as (b) and substituted “application, statement, report, contract, correspondence, notice, or other document filed with or otherwise obtained by the Commission (1) in contravention of the rules and regulations of the Commission under section 552 of title 5, or (2) in circumstances where the Commission has determined pursuant to such rules to accord confidential treatment for such information. Nothing in this subsection shall authorize the Commission to withhold information from Congress” for “application, report, or document filed with the Commission which is not made available to the public pursuant to subsection (b) of this section: Provided, That the Commission may make available to the Board of Governors of the Federal Reserve System any information requested by the Board for the purpose of enabling it to perform its duties under this chapter”. Former subsec. (b), providing for written objection to public disclosure of information, was struck out.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, substituted “Board of Governors of the Federal Reserve System” for “Federal Reserve Board”.

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.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-29 effective June 4, 1975, see section 31(a) of Pub. L. 94-29, set out as a note under section 78b of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

§ 78y. Court review of orders and rules

(a) Final Commission orders; persons aggrieved; petition; record; findings; affirmance, modification, enforcement, or setting aside of orders; remand to adduce additional evidence

(1) A person aggrieved by a final order of the Commission entered pursuant to this chapter may obtain review of the order in the United States Court of Appeals for the circuit in which he resides or has his principal place of business, or for the District of Columbia Circuit, by filing in such court, within sixty days after the entry of the order, a written petition requesting that the order be modified or set aside in whole or in part.

(2) A copy of the petition shall be transmitted forthwith by the clerk of the court to a member of the Commission or an officer designated by the Commission for that purpose. Thereupon the