

lation shall not exceed the greater of (i) \$100,000 for a natural person or \$500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

(3) Procedures for collection

(A) Payment of penalty to Treasury

A penalty imposed under this section shall be payable into the Treasury of the United States, except as otherwise provided in section 7246 of this title and section 78u-6 of this title.

(B) Collection of penalties

If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

(C) Remedy not exclusive

The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

(D) Jurisdiction and venue

For purposes of section 80b-14 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this subchapter.

(4) Special provisions relating to violation of cease-and-desist order

In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 80b-3(k) of this title, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.

(f) Aiding and abetting

For purposes of any action brought by the Commission under subsection (e), any person that knowingly or recklessly has aided, abetted, counseled, commanded, induced, or procured a violation of any provision of this subchapter, or of any rule, regulation, or order hereunder, shall be deemed to be in violation of such provision, rule, regulation, or order to the same extent as the person that committed such violation.

(Aug. 22, 1940, ch. 686, title II, §209, 54 Stat. 853; Pub. L. 86-750, §12, Sept. 13, 1960, 74 Stat. 887; Pub. L. 91-452, title II, §216, Oct. 15, 1970, 84 Stat. 929; Pub. L. 100-181, title VII, §704, Dec. 4, 1987, 101 Stat. 1264; Pub. L. 101-429, title IV, §402, Oct. 15, 1990, 104 Stat. 949; Pub. L. 107-204, title III, §308(d)(5), July 30, 2002, 116 Stat. 785; Pub. L. 111-203, title IX, §§923(a)(3), 929N, July 21, 2010, 124 Stat. 1849, 1862.)

AMENDMENTS

2010—Subsec. (e)(3)(A). Pub. L. 111-203, §923(a)(3), inserted “and section 78u-6 of this title” after “section 7246 of this title”.

Subsec. (f). Pub. L. 111-203, §929N, added subsec. (f).

2002—Subsec. (e)(3)(A). Pub. L. 107-204 inserted “, except as otherwise provided in section 7246 of this title” before period at end.

1990—Subsec. (e). Pub. L. 101-429 added subsec. (e).

1987—Subsecs. (d), (e). Pub. L. 100-181 redesignated subsec. (e) as (d).

1970—Subsec. (d). Pub. L. 91-452 struck out subsec. (d) which related to immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1960—Subsec. (e). Pub. L. 86-750 inserted “, is engaged,” after “has engaged” wherever appearing, and inserted provisions relating to aiders and abettors.

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 1990 AMENDMENT

Amendment by Pub. L. 101-429 effective Oct. 15, 1990, with provisions relating to civil penalties and accounting and disgorgement, see section 1(c)(1), (2) of Pub. L. 101-429, set out in a note under section 77g of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

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.

§ 80b-10. Disclosure of information by Commission

(a) Information available to public

The information contained in any registration application or report or amendment thereto filed with the Commission pursuant to any provision of this subchapter shall be made available to the public, unless and except insofar as the Commission, by rules and regulations upon its own motion, or by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors. Photostatic or other copies of information contained in documents filed with the Commission under this subchapter and made available to the public shall be furnished to any person at such reasonable charge and under such reasonable limitations as the Commission shall prescribe.

(b) Disclosure of fact of examination or investigation; exceptions

Subject to the provisions of subsections (c) and (d) of section 80b-9 of this title and section 78x(c) of this title, the Commission, or any member, officer, or employee thereof, shall not make public the fact that any examination or investigation under this subchapter is being conducted, or the results of or any facts ascertained during any such examination or investigation; and no member, officer, or employee of the Commission shall disclose to any person other than a member, officer, or employee of the Commission any information obtained as a result of any such examination or investigation except with the approval of the Commission. The provisions of this subsection shall not apply—

- (1) in the case of any hearing which is public under the provisions of section 80b-12 of this title; or
- (2) in the case of a resolution or request from either House of Congress.

(c) Disclosure by investment adviser of identity of clients

No provision of this subchapter shall be construed to require, or to authorize the Commission to require any investment adviser engaged in rendering investment supervisory services to disclose the identity, investments, or affairs of any client of such investment adviser, except insofar as such disclosure may be necessary or appropriate in a particular proceeding or investigation having as its object the enforcement of a provision or provisions of this subchapter or for purposes of assessment of potential systemic risk.

(Aug. 22, 1940, ch. 686, title II, §210, 54 Stat. 854; Pub. L. 86-750, §13, Sept. 13, 1960, 74 Stat. 887; Pub. L. 101-550, title II, §202(b)(2), Nov. 15, 1990, 104 Stat. 2715; Pub. L. 111-203, title IV, §405, title IX, §929I(c), July 21, 2010, 124 Stat. 1574, 1858; Pub. L. 111-257, §1(c), Oct. 5, 2010, 124 Stat. 2646.)

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-203, §405, inserted “or for purposes of assessment of potential systemic risk” before period at end.

Subsec. (d). Pub. L. 111-257 struck out subsec. (d). Text read as follows: “Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any records or information provided to the Commission under section 80b-4 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 subchapter, including surveillance, risk assessments, or other regulatory and oversight activities. Nothing in this subsection authorizes the Commission to withhold information from the Congress or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of jurisdiction of that department or agency, or complying with an order of a court of the United States in an action brought by the United States or the Commission. 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 80b-4 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, §929I(c), added subsec. (d).
1990—Subsec. (b). Pub. L. 101-550 substituted “subsections (c) and (d) of section 80b-9 of this title and section 78x(c) of this title” for “subsections (c) and (e) of section 80b-9 of this title”.

1960—Subsec. (b). Pub. L. 86-750 inserted “, or any member, officer, or employee thereof,” after “the Commission”, and inserted proscription against disclosing information to any person not a member, officer, or employee of the Commission.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 929I(c) of 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.

Amendment by section 405 of Pub. L. 111-203 effective 1 year after July 21, 2010, except that any investment adviser may, at the discretion of the investment adviser, register with the Commission under the Investment Advisers Act of 1940 during that 1-year period, subject to the rules of the Commission, and except as otherwise provided, see section 419 of Pub. L. 111-203, set out as a note under section 80b-2 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.

STUDY ON IMPROVED INVESTOR ACCESS TO INFORMATION ON INVESTMENT ADVISERS AND BROKER-DEALERS

Pub. L. 111-203, title IX, §919B, July 21, 2010, 124 Stat. 1838, provided that:

“(a) STUDY.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [July 21, 2010], the Commission shall complete a study, including recommendations, of ways to improve the access of investors to registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information) about registered and previously registered investment advisers, associated persons of investment advisers, brokers and dealers and their associated persons on the existing Central Registration Depository and Investment Adviser Registration Depository systems, as well as identify additional information that should be made publicly available.

“(2) CONTENTS.—The study required by subsection (a) shall include an analysis of the advantages and disadvantages of further centralizing access to the information contained in the 2 systems, including—

“(A) identification of those data pertinent to investors; and

“(B) the identification of the method and format for displaying and publishing such data to enhance accessibility by and utility to investors.

“(b) IMPLEMENTATION.—Not later than 18 months after the date of completion of the study required by subsection (a), the Commission shall implement any recommendations of the study.”

[For definitions of terms used in section 919B of Pub. L. 111-203, set out above, see section 5301 of Title 12, Banks and Banking.]

INVESTOR ACCESS TO INFORMATION

Pub. L. 104-290, title III, §306, Oct. 11, 1996, 110 Stat. 3439, required the Securities and Exchange Commission to provide for investor access to information concerning disciplinary actions involving investment advisers, prior to repeal by Pub. L. 109-290, §7(b)(2), Sept. 29, 2006, 120 Stat. 1321.

§ 80b-10a. Consultation**(a) Examination results and other information**

(1) The appropriate Federal banking agency shall provide the Commission upon request the