

the time of the alleged misconduct was, an officer or director” for “any officer or director” and “such person” for “such officer or director”.

2000—Subsec. (b)(7). Pub. L. 106-554, §1(a)(5) [title II, §202(b)(1)], added par. (7).

Subsec. (b)(8). Pub. L. 106-554, §1(a)(5) [title II, §202(b)(2)], added par. (8).

Subsec. (b)(9). Pub. L. 106-554, §1(a)(5) [title II, §202(b)(3)], added par. (9).

Subsec. (d)(3). Pub. L. 106-554, §1(a)(5) [title II, §202(c)], added par. (3).

1998—Subsec. (c)(5). Pub. L. 105-353 realigned margins.

1993—Subsec. (b)(5), (6). Pub. L. 103-202, §106(c)(1), added pars. (5) and (6).

Subsec. (c)(5). Pub. L. 103-202, §106(c)(2), added par. (5).

1975—Pub. L. 94-29 amended section generally, substituting provisions covering the registration, responsibilities, and oversight of self-regulatory organizations by the Commission for provisions covering only the Commission’s powers with respect to exchanges and securities, with a view to consolidating and expanding the Commission’s oversight powers with respect to self-regulatory organizations, their members, participants, and officers, and with a view to giving the Commission identical powers over all self-regulatory organizations, including registered clearing agencies, and substantially strengthening the Commission’s ability to assure that these organizations carry out their statutory responsibilities.

1970—Subsec. (e)(1). Pub. L. 91-410 substituted “December 31, 1970” for “September 1, 1970”.

1969—Subsec. (e). Pub. L. 91-94 substituted “September 1, 1970” for “September 1, 1969” in par. (1), and “\$945,000” for “\$875,000” in par. (4).

1968—Subsec. (e). Pub. L. 90-438 added subsec. (e).

1962—Subsec. (d). Pub. L. 87-561 substituted “April 3, 1963” for “January 3, 1963” and “\$950,000” for “\$750,000”.

1961—Subsec. (d). Pub. L. 87-196 added subsec. (d).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by sections 916 and 929F(e) 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 717(c) of Pub. L. 111-203 effective on the later of 360 days after July 21, 2010, or, to the extent a provision of subtitle A (§§711-754) of title VII of Pub. L. 111-203 requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of subtitle A, see section 754 of Pub. L. 111-203, set out as a note under section 1a of Title 7, Agriculture.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-29 effective June 4, 1975, except for amendment of subsec. (g) by Pub. L. 94-29 which is effective 180 days after June 4, 1975, see section 31(a) of Pub. L. 94-29, set out as a note under section 78b of this title.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by Pub. L. 103-202 not to be construed to govern initial issuance of any public debt obligation or to grant any authority to (or extend any authority of) the Securities and Exchange Commission, any appropriate regulatory agency, or a self-regulatory organization to prescribe any procedure, term, or condition of such initial issuance, to promulgate any rule or regulation governing such initial issuance, or to otherwise regulate in any manner such initial issuance, see section 111 of Pub. L. 103-202, set out as a note under section 78o-5 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.

REVIEW OF REGULATORY STRUCTURES AND PROCEDURES WITH RESPECT TO PENNY STOCKS; REPORT

Pub. L. 101-429, title V, §510, Oct. 15, 1990, 104 Stat. 957, directed Comptroller General, in consultation with Securities and Exchange Commission, to conduct a review of rules, procedures, facilities, and oversight and enforcement activities of self-regulatory organizations under Securities Exchange Act of 1934, with respect to penny stocks (within the meaning of 15 U.S.C. 78c(a)(51)), and, within one year after Oct. 15, 1990, to submit a report on the review including a statement of findings and such recommendations as the Comptroller General considered appropriate with respect to legislative or administrative changes.

§ 78t. Liability of controlling persons and persons who aid and abet violations

(a) Joint and several liability; good faith defense

Every person who, directly or indirectly, controls any person liable under any provision of this chapter or of any rule or regulation thereunder shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable (including to the Commission in any action brought under paragraph (1) or (3) of section 78u(d) of this title), unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action.

(b) Unlawful activity through or by means of any other person

It shall be unlawful for any person, directly or indirectly, to do any act or thing which it would be unlawful for such person to do under the provisions of this chapter or any rule or regulation thereunder through or by means of any other person.

(c) Hindering, delaying, or obstructing the making or filing of any document, report, or information

It shall be unlawful for any director or officer of, or any owner of any securities issued by, any issuer required to file any document, report, or information under this chapter or any rule or regulation thereunder without just cause to hinder, delay, or obstruct the making or filing of any such document, report, or information.

(d) Liability for trading in securities while in possession of material nonpublic information

Wherever communicating, or purchasing or selling a security while in possession of, material nonpublic information would violate, or result in liability to any purchaser or seller of the security under any provisions of this chapter, or any rule or regulation thereunder, such conduct in connection with a purchase or sale of a put, call, straddle, option, privilege or security-based swap agreement with respect to such security or with respect to a group or index of securities including such security, shall also violate and result in comparable liability to any purchaser or seller of that security under such provision, rule, or regulation.

(e) Prosecution of persons who aid and abet violations

For purposes of any action brought by the Commission under paragraph (1) or (3) of section

78u(d) of this title, any person that knowingly or recklessly provides substantial assistance to another person in violation of a provision of this chapter, or of any rule or regulation issued under this chapter, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.

(f) Limitation on Commission authority

The authority of the Commission under this section with respect to security-based swap agreements shall be subject to the restrictions and limitations of section 78c-1(b) of this title.

(June 6, 1934, ch. 404, title I, §20, 48 Stat. 899; May 27, 1936, ch. 462, §6, 49 Stat. 1379; Pub. L. 88-467, §9, Aug. 20, 1964, 78 Stat. 579; Pub. L. 98-376, §5, Aug. 10, 1984, 98 Stat. 1265; Pub. L. 104-67, title I, §104, Dec. 22, 1995, 109 Stat. 757; Pub. L. 105-353, title III, §301(b)(12), Nov. 3, 1998, 112 Stat. 3236; Pub. L. 106-554, §1(a)(5) [title II, §205(a)(3), title III, §303(i), (j)], Dec. 21, 2000, 114 Stat. 2763, 2763A-426, 2763A-456; Pub. L. 111-203, title VII, §762(d)(6), title IX, §§929O, 929P(c), July 21, 2010, 124 Stat. 1761, 1862, 1865.)

AMENDMENT OF SECTION

Unless otherwise provided, amendment by subtitle B (§§761-774) of title VII of Pub. L. 111-203 effective on the later of 360 days after July 21, 2010, or, to the extent a provision of subtitle B requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of subtitle B, see 2010 Amendment notes and Effective Date of 2010 Amendment note below.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”. See References in Text note set out under section 78a of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, §929P(c), inserted “(including to the Commission in any action brought under paragraph (1) or (3) of section 78u(d) of this title)” after “controlled person is liable”.

Subsec. (d). Pub. L. 111-203, §762(d)(6)(A), struck out “(as defined in section 206B of the Gramm-Leach-Bliley Act)” after “security-based swap agreement”.

Subsec. (e). Pub. L. 111-203, §929O, inserted “or recklessly” after “knowingly”.

Subsec. (f). Pub. L. 111-203, §762(d)(6)(B), struck out “(as defined in section 206B of the Gramm-Leach-Bliley Act)” after “security-based swap agreements”.

2000—Subsec. (d). Pub. L. 106-554, §1(a)(5) [title III, §303(i)], amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “Wherever communicating, or purchasing or selling a security while in possession of, material nonpublic information would violate, or result in liability to any purchaser or seller of the security under any provision of this chapter, or any rule or regulation thereunder, such conduct in connection with a purchase or sale of a put, call, straddle, option, privilege, or security futures product with respect to such security or with respect to a group or index of securities including such security, shall also violate and result in comparable liability to any purchaser or seller of that security under such provision, rule, or regulation.”

Pub. L. 106-554, §1(a)(5) [title II, §205(a)(3)], substituted “, privilege, or security futures product” for “or privilege”.

Subsec. (f). Pub. L. 106-554, §1(a)(5) [title III, §303(j)], added subsec. (f).

1998—Subsecs. (e), (f). Pub. L. 105-353 redesignated subsec. (f) as (e).

1995—Pub. L. 104-67, §104(1), substituted “liability of controlling persons and persons who aid and abet violations” for “Liabilities of controlling persons” in section catchline.

Subsec. (f). Pub. L. 104-67, §104(2), added subsec. (f).

1984—Subsec. (d). Pub. L. 98-376 added subsec. (d).

1964—Subsec. (c). Pub. L. 88-467 extended application of provisions of subsec. (c) by substituting the prohibition against any officer or director of, or an owner of securities issued by, a company from hindering, delaying, or obstructing the preparation or filing of any report, document, or information required to be filed under this chapter for existing provisions applicable only to filings by companies with securities registered on a national securities exchange or subject to the provisions of section 78o(d) of this title.

1936—Subsec. (c). Act May 27, 1936, inserted “or any undertaking contained in a registration statement as provided in subsection (d) of section 78o of this title”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by sections 929O and 929P(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 762(d)(6) of Pub. L. 111-203 effective on the later of 360 days after July 21, 2010, or, to the extent a provision of subtitle B (§§761-774) of title VII of Pub. L. 111-203 requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of subtitle B, see section 774 of Pub. L. 111-203, set out as a note under section 77b of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-67 not to affect or apply to any private action arising under this chapter or title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.), commenced before and pending on Dec. 22, 1995, see section 108 of Pub. L. 104-67, set out as a note under section 77l of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-376 effective Aug. 10, 1984, see section 7 of Pub. L. 98-376, set out as a note under section 78c of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-467 effective Aug. 20, 1964, see section 13 of Pub. L. 88-467, set out as a note under section 78c of this title.

CONSTRUCTION OF 1995 AMENDMENT

Nothing in amendment by Pub. L. 104-67 to be deemed to create or ratify any implied right of action, or to prevent Commission, by rule or regulation, from restricting or otherwise regulating private actions under this chapter, see section 203 of Pub. L. 104-67, set out as a Construction note under section 78j-1 of this title.

§ 78t-1. Liability to contemporaneous traders for insider trading

(a) Private rights of action based on contemporaneous trading

Any person who violates any provision of this chapter or the rules or regulations thereunder by purchasing or selling a security while in possession of material, nonpublic information shall be liable in an action in any court of competent jurisdiction to any person who, contemporaneously with the purchase or sale of securities that is the subject of such violation, has purchased (where such violation is based on a sale of securities) or sold (where such violation is based on a purchase of securities) securities of the same class.