Act of 1934 [15 U.S.C. 78a et seq.] to implement the requirements of section 14(h) of the Securities Exchange Act of 1934 [15 U.S.C. 78n(h)], as amended by subsection (a), and such regulations shall become effective not later than 12 months after the date of enactment of this Act [Dec. 17, 1993].''

CONSTRUCTION OF 1993 AMENDMENT

Amendment by Pub. L. 103–202 not to limit authority of Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of this chapter or preclude the Commission or such association or exchange from imposing a remedy or procedure required to be imposed under such amendment, see section 304(b) of Pub. L. 103–202, set out in an Effective Date of 1993 Amendment note under section 78f 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 AND REPORT ON SHAREHOLDER ACCESS TO PROXY STATEMENTS

Pub. L. 104–290, title V, §510(b), Oct. 11, 1996, 110 Stat. 3450, provided that:

''(1) STUDY.—The Commission shall conduct a study of—

''(A) whether shareholder access to proxy statements pursuant to section 14 of the Securities Exchange Act of 1934 [15 U.S.C. 78n] has been impaired by recent statutory, judicial, or regulatory changes; and

''(B) the ability of shareholders to have proposals relating to corporate practices and social issues included as part of proxy statements.

''(2) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 11, 1996], the Commission shall submit a report to the Congress on the results of the study conducted under paragraph (1), together with any recommendations for regulatory or legislative changes that it considers necessary to improve shareholder access to proxy statements.''

EVALUATION OF FAIRNESS OPINION PREPARATION, DISCLOSURE, AND USE

Pub. L. 103–202, title III, §302(c), Dec. 17, 1993, 107 Stat. 2363, provided that:

''(1) EVALUATION REQUIRED.—The Comptroller General of the United States shall, within 18 months after the date of enactment of this Act [Dec. 17, 1993], conduct a study of—

''(A) the use of fairness opinions in limited partnership rollup transactions;

''(B) the standards which preparers use in making determinations of fairness;

''(C) the scope of review, quality of analysis, qualifications and methods of selection of preparers, costs of preparation, and any limitations imposed by issuers on such preparers;

''(D) the nature and quality of disclosures provided with respect to such opinions;

''(E) any conflicts of interest with respect to the preparation of such opinions; and

''(F) the usefulness of such opinions to limited partners.

''(2) REPORT REQUIRED.—Not later than the end of the 18-month period referred to in paragraph (1), the Comptroller General of the United States shall submit to the Congress a report on the evaluation required by paragraph (1).''

ADJUSTMENT OF REGISTRATION FEE RATE

By order dated Aug. 24, 2017, the Securities and Exchange Commission adjusted the fee rates applicable under subsec. (g) of this section to $124.50 per $1,000,000, effective Oct. 1, 2017, see 82 F.R. 41080.

By order dated Aug. 30, 2016, the Securities and Exchange Commission adjusted the fee rates applicable under subsec. (g) of this section to $115.90 per $1,000,000, effective Oct. 1, 2016, see 81 F.R. 61283.

By order dated Aug. 26, 2015, the Securities and Exchange Commission adjusted the fee rates applicable under subsec. (g) of this section to $100.70 per $1,000,000, effective Oct. 1, 2015, see 80 F.R. 52824.

By order dated Aug. 29, 2014, the Securities and Exchange Commission adjusted the fee rates applicable under subsec. (g) of this section to $116.20 per $1,000,000, effective Oct. 1, 2014, see 79 F.R. 52771.

By order dated Aug. 30, 2013, the Securities and Exchange Commission adjusted the fee rates applicable under subsec. (g) of this section to $128.80 per $1,000,000, effective Oct. 1, 2013, see 78 F.R. 54934.

By order dated Aug. 31, 2012, the Securities and Exchange Commission adjusted the fee rates applicable under subsec. (g) of this section to $136.40 per $1,000,000, effective Oct. 1, 2012, see 77 F.R. 55240.

By order dated Aug. 31, 2011, the Securities and Exchange Commission adjusted the fee rates applicable under subsec. (g) of this section to $114.60 per $1,000,000, effective Oct. 1, 2011, see 76 F.R. 55139.

§ 78n–1. Shareholder approval of executive compensation

(a) Separate resolution required

(1) In general

Not less frequently than once every 3 years, a proxy or consent or authorization for an annual or other meeting of the shareholders for which the proxy solicitation rules of the Commission require compensation disclosure shall include a separate resolution subject to shareholder vote to approve the compensation of executives, as disclosed pursuant to section 229.402 of title 17, Code of Federal Regulations, or any successor thereto.

(2) Frequency of vote

Not less frequently than once every 6 years, a proxy or consent or authorization for an annual or other meeting of the shareholders for which the proxy solicitation rules of the Commission require compensation disclosure shall include a separate resolution subject to shareholder vote to determine whether votes on the resolutions required under paragraph (1) will occur every 1, 2, or 3 years.

(3) Effective date

The proxy or consent or authorization for the first annual or other meeting of the shareholders occurring after the end of the 6-month period beginning on July 21, 2010, shall include—

(A) the resolution described in paragraph (1); and

(B) a separate resolution subject to shareholder vote to determine whether votes on the resolutions required under paragraph (1) will occur every 1, 2, or 3 years.

(b) Shareholder approval of golden parachute compensation

(1) Disclosure

In any proxy or consent solicitation material (the solicitation of which is subject to the rules of the Commission pursuant to subsection (a)) for a meeting of the shareholders occurring after the end of the 6-month period beginning on July 21, 2010, at which shareholder

ers are asked to approve an acquisition, merger, consolidation, or proposed sale or other disposition of all or substantially all the assets of an issuer, the person making such solicitation shall disclose in the proxy or consent solicitation material, in a clear and simple form in accordance with regulations to be promulgated by the Commission, any agreements or understandings that such person has with any named executive officers of such issuer (or of the acquiring issuer, if such issuer is not the acquiring issuer) concerning any type of compensation (whether present, deferred, or contingent) that is based on or otherwise relates to the acquisition, merger, consolidation, sale, or other disposition of all or substantially all of the assets of the issuer and the aggregate total of all such compensation that may (and the conditions upon which it may) be paid or become payable to or on behalf of such executive officer.

(2) Shareholder approval

Any proxy or consent or authorization relating to the proxy or consent solicitation material containing the disclosure required by paragraph (1) shall include a separate resolution subject to shareholder vote to approve such agreements or understandings and compensation as disclosed, unless such agreements or understandings have been subject to a shareholder vote under subsection (a).

(c) Rule of construction

The shareholder vote referred to in subsections (a) and (b) shall not be binding on the issuer or the board of directors of an issuer, and may not be construed—

(1) as overruling a decision by such issuer or board of directors;

(2) to create or imply any change to the fiduciary duties of such issuer or board of directors;

(3) to create or imply any additional fiduciary duties for such issuer or board of directors; or

(4) to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

(d) Disclosure of votes

Every institutional investment manager subject to section 78m(f) of this title shall report at least annually how it voted on any shareholder vote pursuant to subsections (a) and (b), unless such vote is otherwise required to be reported publicly by rule or regulation of the Commission.

(e) Exemption

(1) In general

The Commission may, by rule or order, exempt any other issuer or class of issuers from the requirement under subsection (a) or (b). In determining whether to make an exemption under this subsection, the Commission shall take into account, among other considerations, whether the requirements under subsections (a) and (b) disproportionately burdens[1] small issuers.

[1] So in original. Probably should be ''burden''.

(2) Treatment of emerging growth companies

(A) In general

An emerging growth company shall be exempt from the requirements of subsections (a) and (b).

(B) Compliance after termination of emerging growth company treatment

An issuer that was an emerging growth company but is no longer an emerging growth company shall include the first separate resolution described under subsection (a)(1) not later than the end of—

(i) in the case of an issuer that was an emerging growth company for less than 2 years after the date of first sale of common equity securities of the issuer pursuant to an effective registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.], the 3-year period beginning on such date; and

(ii) in the case of any other issuer, the 1-year period beginning on the date the issuer is no longer an emerging growth company.

(June 6, 1934, ch. 404, title I, §14A, as added Pub. L. 111–203, title IX, §951, July 21, 2010, 124 Stat. 1899; amended Pub. L. 112–106, title I, §102(a)(1), Apr. 5, 2012, 126 Stat. 308.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (e)(2)(B)(i), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of this title. For complete classification of this Act to the Code, see section 77a of this title and Tables.

AMENDMENTS

2012—Subsec. (e). Pub. L. 112–106 designated existing provisions as par. (1), inserted heading, substituted ''any other issuer'' for ''an issuer'', and added par. (2).

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.

§ 78n–2. Corporate governance

Not later than 180 days after July 21, 2010, the Commission shall issue rules that require an issuer to disclose in the annual proxy sent to investors the reasons why the issuer has chosen—

(1) the same person to serve as chairman of the board of directors and chief executive officer (or in equivalent positions); or

(2) different individuals to serve as chairman of the board of directors and chief executive officer (or in equivalent positions of the issuer).

(June 6, 1934, ch. 404, title I, §14B, as added Pub. L. 111–203, title IX, §972, July 21, 2010, 124 Stat. 1915.)

CODIFICATION

July 21, 2010, referred to in text, was in the original ''the date of enactment of this subsection'', and was translated as meaning the date of enactment of Pub. L. 111–203, which enacted this section, to reflect the probable intent of Congress.