

only to the extent that payments of such assessment are received by such collection agent. Members of SIPC who are not members of or participants in a self-regulatory organization shall make payments directly to SIPC.

(b) Immunity

No self-regulatory organization shall have any liability to any person for any action taken or omitted in good faith pursuant to section 78eee(a)(1) and section 78eee(a)(2) of this title.

(c) Inspections

The self-regulatory organization of which a member of SIPC is a member or in which it is a participant shall inspect or examine such member for compliance with applicable financial responsibility rules, except that—

(1) if the self-regulatory organization is a registered clearing agency, the Commission may designate itself as responsible for the examination of such member for compliance with applicable financial responsibility rules; and

(2) if a member of SIPC is a member of or participant in more than one self-regulatory organization, the Commission, pursuant to section 78q(d) of this title, shall designate one of such self-regulatory organizations or itself as responsible for the examination of such member for compliance with applicable financial responsibility rules.

(d) Reports

There shall be filed with SIPC by the self-regulatory organizations such reports of inspections or examinations of the members of SIPC (or copies thereof) as may be designated by SIPC by bylaw or rule.

(e) Consultation

SIPC shall consult and cooperate with the self-regulatory organizations toward the end:

(1) that there may be developed and carried into effect procedures reasonably designed to detect approaching financial difficulty upon the part of any member of SIPC;

(2) that, as nearly as may be practicable, examinations to ascertain whether members of SIPC are in compliance with applicable financial responsibility rules will be conducted by the self-regulatory organizations under appropriate standards (both as to method and scope) and reports of such examinations will, where appropriate, be standard in form; and

(3) that, as frequently as may be practicable under the circumstances, each member of SIPC will file financial information with, and be examined by, the self-regulatory organization which is the examining authority for such member.

(f) Financial condition of members

The Commission may, by such rules as it determines necessary or appropriate in the public interest and to carry out the purposes of this chapter, require any self-regulatory organization to furnish SIPC with reports and records (or copies thereof) relating to the financial condition of members of or participants in such self-regulatory organization.

(Pub. L. 91-598, §13, formerly §9, Dec. 30, 1970, 84 Stat. 1654; amended Pub. L. 94-29, §26, June 4,

1975, 89 Stat. 163; renumbered §13 and amended Pub. L. 95-283, §§9, 12, May 21, 1978, 92 Stat. 260, 269.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original “this Act”, meaning Pub. L. 91-598, Dec. 30, 1970, 84 Stat. 1636. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-283, §12(a), in heading substituted “Collection” for “Collecting”, and in text inserted provisions relating to designation of a self-regulatory organization other than the examining authority to act as collection agent and provisions relating to designation of a registered clearing agency as collection agent, and substituted provisions relating to remittances by the collection agent to SIPC, for provisions relating to remittances by an examining authority to SIPC.

Subsec. (b). Pub. L. 95-283, §12(b), inserted reference to section 78eee(a)(2) of this title.

Subsec. (c). Pub. L. 95-283, §12(c), revised existing format and provisions into introductory text and cl. (2) and, as so revised, in introductory text inserted provisions respecting participation by a member of SIPC in a self-regulatory organization and in cl. (2) inserted provisions respecting such participation and authorization for the Commission to designate itself as responsible for the statutory examination, and added cl. (1).

Subsec. (f). Pub. L. 95-283, §12(d), substituted provisions authorizing the Commission to set out rules requiring self-regulatory organizations to furnish SIPC with reports and records of members or participants in such self-regulatory organizations, for provisions authorizing the Commission to set out rules, and regulations requiring self-regulatory organizations to adopt rules, practices, and procedures respecting inspections and examinations of members and examiners, to furnish SIPC and the Commission with reports and records of members, and to inspect or examine members.

1975—Subsec. (c). Pub. L. 94-29 directed the Commission to designate the self-regulatory organization to be responsible for enforcing applicable rules with respect to any firm which is a member of more than one self-regulatory organization.

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.

§ 78jjj. Prohibited acts

(a) Failure to pay assessment, etc.

If a member of SIPC shall fail to file any report or information required pursuant to this chapter, or shall fail to pay when due all or any part of an assessment made upon such member pursuant to this chapter, and such failure shall not have been cured, by the filing of such report or information or by the making of such payment, together with interest and penalty thereon, within five days after receipt by such member of written notice of such failure given by or on behalf of SIPC, it shall be unlawful for such member, unless specifically authorized by the Commission, to engage in business as a broker or dealer. If such member denies that it owes all or any part of the amount specified in such notice, it may after payment of the full amount so specified commence an action against SIPC in the appropriate United States district court to recover the amount it denies owing.

(b) Engaging in business after appointment of trustee or initiation of direct payment procedure

It shall be unlawful for any broker or dealer for whom a trustee has been appointed pursuant to this chapter or for whom a direct payment procedure has been initiated to engage thereafter in business as a broker or dealer, unless the Commission otherwise determines in the public interest. The Commission may by order bar or suspend for any period, any officer, director, general partner, owner of 10 per centum or more of the voting securities, or controlling person of any broker or dealer for whom a trustee has been appointed pursuant to this chapter or for whom a direct payment procedure has been initiated from being or becoming associated with a broker or dealer, if after appropriate notice and opportunity for hearing, the Commission shall determine such bar or suspension to be in the public interest.

(c) Concealment of assets; false statements or claims**(1) Specific prohibited acts**

Any person who, directly or indirectly, in connection with or in contemplation of any liquidation proceeding or direct payment procedure—

(A) employs any device, scheme, or artifice to defraud;

(B) engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; or

(C) fraudulently or with intent to defeat this chapter—

(i) conceals or transfers any property belonging to the estate of a debtor;

(ii) makes a false statement or account;

(iii) presents or uses any false claim for proof against the estate of a debtor;

(iv) receives any material amount of property from a debtor;

(v) gives, offers, receives, transfers, or obtains any money or property, remuneration, compensation, reward, advantage, other consideration, or promise thereof, for acting or forbearing to act;

(vi) conceals, destroys, mutilates, falsifies, makes a false entry in, or otherwise falsifies any document affecting or relating to the property or affairs of a debtor; or

(vii) withholds, from any person entitled to its possession, any document affecting or relating to the property or affairs of a debtor,

shall be fined not more than \$250,000 or imprisoned for not more than five years, or both.

(2) Fraudulent conversion

Any person who, directly or indirectly steals, embezzles, or fraudulently, or with intent to defeat this chapter, abstracts or converts to his own use or to the use of another any of the moneys, securities, or other assets of SIPC, or otherwise defrauds or attempts to defraud SIPC or a trustee by any means, shall be fined not more than \$250,000 or imprisoned not more than five years, or both.

(d) Misrepresentation of SIPC membership or protection**(1) In general**

Any person who falsely represents by any means (including, without limitation, through the Internet or any other medium of mass communication), with actual knowledge of the falsity of the representation and with an intent to deceive or cause injury to another, that such person, or another person, is a member of SIPC or that any person or account is protected or is eligible for protection under this chapter or by SIPC, shall be liable for any damages caused thereby and shall be fined not more than \$250,000 or imprisoned for not more than 5 years.

(2) Injunctions

Any court having jurisdiction of a civil action arising under this chapter may grant temporary injunctions and final injunctions on such terms as the court deems reasonable to prevent or restrain any violation of paragraph (1). Any such injunction may be served anywhere in the United States on the person enjoined, shall be operative throughout the United States, and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction over that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all papers in the case on file in such clerk's office.

(Pub. L. 91-598, §14, formerly §10, Dec. 30, 1970, 84 Stat. 1655; renumbered §14 and amended Pub. L. 95-283, §§9, 13, May 21, 1978, 92 Stat. 260, 269; Pub. L. 111-203, title IX, §929V(b), (c), July 21, 2010, 124 Stat. 1868.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 91-598, Dec. 30, 1970, 84 Stat. 1636. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2010—Subsec. (c)(1). Pub. L. 111-203, §929V(b)(1), substituted "\$250,000" for "\$50,000" in concluding provisions.

Subsec. (c)(2). Pub. L. 111-203, §929V(b)(2), substituted "\$250,000" for "\$50,000".

Subsec. (d). Pub. L. 111-203, §929V(c), added subsec. (d).

1978—Subsec. (a). Pub. L. 95-283, §13(a), inserted "and penalty" after "interest", and substituted "it" for "he" wherever appearing.

Subsec. (b). Pub. L. 95-283, §13(b), in heading inserted "or initiation of direct payment procedure" after "trustee", and in text inserted references to initiation of direct payment procedure in two places.

Subsec. (c). Pub. L. 95-283, §13(c), in heading substituted "Concealment of assets; false statements or claims" for "Embezzlement, etc., of assets of SIPC", added par. (1), and designated existing provisions as par. (2) and, as so designated, inserted references to direct or indirect acts, and provisions covering defrauding or attempts to defraud SIPC or a trustee, and substituted provisions covering activities constituting fraudulent, or with intent to defeat this chapter, abstracts or conversions, for provisions covering activities constituting unlawfully abstracting or unlawfully and willfully converting moneys, etc.

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.

§ 78kkk. Miscellaneous provisions**(a) Public inspection of reports**

Any notice, report, or other document filed with SIPC pursuant to this chapter shall be available for public inspection unless SIPC or the Commission shall determine that disclosure thereof is not in the public interest. Nothing herein shall act to deny documents or information to the Congress of the United States or the committees of either House having jurisdiction over financial institutions, securities regulation, or related matters under the rules of each body. Nor shall the Commission be denied any document or information which the Commission, in its judgment, needs.

(b) Liability of members of SIPC

Except for such assessments as may be made upon such member pursuant to the provisions of section 78ddd of this title, no member of SIPC shall have any liability under this chapter as a member of SIPC for, or in connection with, any act or omission of any other broker or dealer whether in connection with the conduct of the business or affairs of such broker or dealer or otherwise and, without limiting the generality of the foregoing, no member shall have any liability for or in respect of any indebtedness or other liability of SIPC.

(c) Liability of SIPC and Directors, officers, or employees

Neither SIPC nor any of its Directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter contemplated by this chapter.

(d) Advertising

SIPC shall by bylaw prescribe the manner in which a member of SIPC may display any sign or signs (or include in any advertisement a statement) relating to the protection to customers and their accounts, or any other protections, afforded under this chapter. No member may display any such sign, or include in an advertisement any such statement, except in accordance with such bylaws. SIPC may also by bylaw prescribe such minimal requirements as it considers necessary and appropriate to require a member of SIPC to provide public notice of its membership in SIPC.

(e) SIPC exempt from taxation

SIPC, its property, its franchise, capital, reserves, surplus, and its income, shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of SIPC shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed. Assessments made upon a member of SIPC shall constitute ordinary and necessary expenses in carrying on the business

of such member for the purpose of section 162(a) of title 26. The contribution and transfer to SIPC of funds or securities held by any trust established by a national securities exchange prior to January 1, 1970, for the purpose of providing assistance to customers of members of such exchange, shall not result in any taxable gain to such trust or give rise to any taxable income to any member of SIPC under any provision of title 26, nor shall such contribution or transfer, or any reduction in assessments made pursuant to this chapter, in any way affect the status, as ordinary and necessary expenses under section 162(a) of title 26, of any contributions made to such trust by such exchange at any time prior to such transfer. Upon dissolution of SIPC, none of its net assets shall inure to the benefit of any of its members.

(f) Section 78t(a) of this title not to apply

The provisions of subsection (a) of section 78t of this title shall not apply to any liability under or in connection with this chapter.

(g) SEC study of unsafe or unsound practices

Not later than twelve months after December 30, 1970, the Commission shall compile a list of unsafe or unsound practices by members of SIPC in conducting their business and report to the Congress (1) the steps being taken under the authority of existing law to eliminate those practices and (2) recommendations concerning additional legislation which may be needed to eliminate those unsafe or unsound practices.

(Pub. L. 91-598, §15, formerly §11, Dec. 30, 1970, 84 Stat. 1655; renumbered §15 and amended Pub. L. 95-283, §§9, 14, May 21, 1978, 92 Stat. 260, 270; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

This chapter, referred to in subssecs. (a) to (f), was in the original "this Act", meaning Pub. L. 91-598, Dec. 30, 1970, 84 Stat. 1636. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1986—Subsec. (e). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954" wherever appearing, which for purposes of codification was translated as "title 26" thus requiring no change in text.

1978—Subsec. (b). Pub. L. 95-283, §14(c), redesignated subsec. (c) as (b). Former subsec. (b), relating to application of securities investor protection provisions to foreign members, was struck out.

Subsec. (c). Pub. L. 95-283, §14(a), (c), redesignated subsec. (d) as (c) and inserted "officers, or employees" after "Directors" in heading and text. Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 95-283, §14(b), (c), redesignated subsec. (e) as (d), inserted provisions authorizing SIPC to prescribe necessary and proper minimal requirements for providing public notice of membership by a member of SIPC in SIPC, and struck out provisions authorizing rules by SIPC to implement advertising requirements. Former subsec. (d) redesignated (c).

Subsecs. (e) to (h). Pub. L. 95-283, §14(c), redesignated subsecs. (e) to (h) as (d) to (g), respectively.

§ 78III. Definitions

For purposes of this chapter, including the application of the Bankruptcy Act to a liquidation proceeding: