

REFERENCES IN TEXT

Reorganization Plan Numbered 10 of 1950 (64 Stat. 1265), referred to in text, is set out as a note under section 78d of this title.

PRIOR PROVISIONS

A prior section 78d-2, Pub. L. 87-592, § 2, Aug. 20, 1962, 76 Stat. 395, provided for subject matter similar to the provisions comprising this section, prior to repeal by section 308(b) of Pub. L. 100-181.

§ 78d-3. Appearance and practice before the Commission

(a) Authority to censure

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found by the Commission, after notice and opportunity for hearing in the matter—

- (1) not to possess the requisite qualifications to represent others;
- (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or
- (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

(b) Definition

With respect to any registered public accounting firm or associated person, for purposes of this section, the term “improper professional conduct” means—

- (1) intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards; and
- (2) negligent conduct in the form of—
 - (A) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which the registered public accounting firm or associated person knows, or should know, that heightened scrutiny is warranted; or
 - (B) repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.

(June 6, 1934, ch. 404, title I, § 4C, as added Pub. L. 107-204, title VI, § 602, July 30, 2002, 116 Stat. 794.)

§ 78d-4. Additional duties of Inspector General

(a) Suggestion submissions by Commission employees

(1) Hotline established

The Inspector General of the Commission shall establish and maintain a telephone hotline or other electronic means for the receipt of—

- (A) suggestions by employees of the Commission for improvements in the work efficiency, effectiveness, and productivity, and the use of the resources, of the Commission; and
- (B) allegations by employees of the Commission of waste, abuse, misconduct, or mismanagement within the Commission.

(2) Confidentiality

The Inspector General shall maintain as confidential—

- (A) the identity of any individual who provides information by the means established under paragraph (1), unless the individual requests otherwise, in writing; and
- (B) at the request of any such individual, any specific information provided by the individual.

(b) Consideration of reports

The Inspector General shall consider any suggestions or allegations received by the means established under subsection (a)(1), and shall recommend appropriate action in relation to such suggestions or allegations.

(c) Recognition

The Inspector General may recognize any employee who makes a suggestion under subsection (a)(1) (or by other means) that would or does—

- (1) increase the work efficiency, effectiveness, or productivity of the Commission; or
- (2) reduce waste, abuse, misconduct, or mismanagement within the Commission.

(d) Report

The Inspector General of the Commission shall submit to Congress an annual report containing a description of—

- (1) the nature, number, and potential benefits of any suggestions received under subsection (a);
- (2) the nature, number, and seriousness of any allegations received under subsection (a);
- (3) any recommendations made or actions taken by the Inspector General in response to substantiated allegations received under subsection (a); and
- (4) any action the Commission has taken in response to suggestions or allegations received under subsection (a).

(e) Funding

The activities of the Inspector General under this subsection shall be funded by the Securities and Exchange Commission Investor Protection Fund established under section 78u-6 of this title.

(June 6, 1934, ch. 404, title I, § 4D, as added Pub. L. 111-203, title IX, § 966, July 21, 2010, 124 Stat. 1912.)

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.

§ 78d-5. Deadline for completing enforcement investigations and compliance examinations and inspections

(a) Enforcement investigations

(1) In general

Not later than 180 days after the date on which Commission staff provide¹ a written Wells notification to any person, the Commission staff shall either file an action against

¹ So in original. Probably should be “provides”.