

plication, then all bankruptcy proceedings are suspended until the SIPC action is completed. If SIPC completes liquidation of the stockbroker then the bankruptcy case is dismissed.

Editorial Notes

REFERENCES IN TEXT

The Securities Investor Protection Act of 1970, referred to in text, is Pub. L. 91-598, Dec. 30, 1970, 84 Stat. 1636, as amended, which is classified generally to chapter 2B-1 (§78aaa et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78aaa of Title 15 and Tables.

AMENDMENTS

1994—Pub. L. 103-394 struck out “(15 U.S.C. 78aaa et seq.)” after “Act of 1970”.

1982—Pub. L. 97-222 substituted “title” for “chapter” after “all proceedings in the case under this”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

§ 743. Notice

The clerk shall give the notice required by section 342 of this title to SIPC and to the Commission.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2613; Pub. L. 99-554, title II, §283(t), Oct. 27, 1986, 100 Stat. 3118; Pub. L. 103-394, title V, §501(d)(27), Oct. 22, 1994, 108 Stat. 4146.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Section 743 requires that notice of the order for relief be given to SIPC and to the SEC in every stockbroker case.

Editorial Notes

AMENDMENTS

1994—Pub. L. 103-394 substituted “342” for “342(a)”.

1986—Pub. L. 99-554, which directed the amendment of this section by striking “(d)”, rather than “(a)”, could not be executed because “(d)” did not appear in text. See 1994 Amendment note above.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

§ 744. Executory contracts

Notwithstanding section 365(d)(1) of this title, the trustee shall assume or reject, under section 365 of this title, any executory contract of the

debtor for the purchase or sale of a security in the ordinary course of the debtor’s business, within a reasonable time after the date of the order for relief, but not to exceed 30 days. If the trustee does not assume such a contract within such time, such contract is rejected.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2613; Pub. L. 97-222, §10, July 27, 1982, 96 Stat. 238.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Section 744 instructs the court to give the trustee a reasonable time, not to exceed 30 days, to assume or reject any executory contract of the stockbroker to buy or sell securities. Any contract not assumed within the time fixed by the court is considered to be rejected.

Editorial Notes

AMENDMENTS

1982—Pub. L. 97-222 inserted “but” after “relief.”.

§ 745. Treatment of accounts

(a) Accounts held by the debtor for a particular customer in separate capacities shall be treated as accounts of separate customers.

(b) If a stockbroker or a bank holds a customer net equity claim against the debtor that arose out of a transaction for a customer of such stockbroker or bank, each such customer of such stockbroker or bank shall be treated as a separate customer of the debtor.

(c) Each trustee’s account specified as such on the debtor’s books, and supported by a trust deed filed with, and qualified as such by, the Internal Revenue Service, and under the Internal Revenue Code of 1986, shall be treated as a separate customer account for each beneficiary under such trustee account.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2613; Pub. L. 97-222, §11, July 27, 1982, 96 Stat. 238; Pub. L. 98-353, title III, §483, July 10, 1984, 98 Stat. 383; Pub. L. 103-394, title V, §501(d)(28), Oct. 22, 1994, 108 Stat. 4146.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Section 745(a) indicates that each account held by a customer in a separate capacity is to be considered a separate account. This prevents the offset of accounts held in different capacities.

Subsection (b) indicates that a bank or another stockbroker that is a customer of a debtor is considered to hold its customers accounts in separate capacities. Thus a bank or other stockbroker is not treated as a mutual fund for purposes of bulk investment. This protects unrelated customers of a bank or other stockholder from having their accounts offset.

Subsection (c) effects the same result with respect to a trust so that each beneficiary is treated as the customer of the debtor rather than the trust itself. This eliminates any doubt whether a trustee holds a personal account in a separate capacity from his trustee’s account.

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsection (c), is classified generally to Title 26, Internal Revenue Code.