

101-550, title I, §104(b), Nov. 15, 1990, 104 Stat. 2714.)

AMENDMENTS

1990—Subsec. (d). Pub. L. 101-550 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The provisions of section 78d(b) of this title shall be applicable with respect to the power of the Commission to appoint and fix the compensation of such officers, attorneys, examiners, and other experts, and such other officers and employees, as may be necessary for carrying out its functions under this subchapter.”

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.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions of officers, agencies and employees of Department of the Treasury to Secretary of the Treasury, made by Reorg. Plan No. 26 of 1950, §1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280. See section 321(c)(2) of Title 31, Money and Finance.

§ 77vvv. Judicial review

(a) Review of orders

Orders of the Commission under this subchapter (including orders pursuant to the provisions of sections 77eee(b) and 77ggg(c) of this title) shall be subject to review in the same manner, upon the same conditions, and to the same extent, as provided in section 9 of the Securities Act of 1933 [15 U.S.C. 77i], with respect to orders of the Commission under such Act.

(b) Jurisdiction of offenses and suits

Jurisdiction of offenses and violations under, and jurisdiction and venue of suits and actions brought to enforce any liability or duty created by, this subchapter, or any rules or regulations or orders prescribed under the authority thereof, shall be as provided in section 22(a) of the Securities Act of 1933 [15 U.S.C. 77v(a)].

(May 27, 1933, ch. 38, title III, §322, as added Aug. 3, 1939, ch. 411, 53 Stat. 1175; amended Pub. L. 101-550, title IV, §418, Nov. 15, 1990, 104 Stat. 2732.)

REFERENCES IN TEXT

Such Act, referred to in subsec. (a), means the Securities Act of 1933, approved May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of this chapter. For complete classification of this Act to the Code, see section 77a of this title and Tables.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-550 inserted “or duty” after “any liability”.

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.

§ 77www. Liability for misleading statements

(a) Any person who shall make or cause to be made any statement in any application, report,

or document filed with the Commission pursuant to any provisions of this subchapter, or any rule, regulation, or order thereunder, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or who shall omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall be liable to any person (not knowing that such statement was false or misleading or of such omission) who, in reliance upon such statement or omission, shall have purchased or sold a security issued under the indenture to which such application, report, or document relates, for damages caused by such reliance, unless the person sued shall prove that he acted in good faith and had no knowledge that such statement was false or misleading or of such omission. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction. In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit and assess reasonable costs, including reasonable attorneys' fees, against either party litigant, having due regard to the merits and good faith of the suit or defense. No action shall be maintained to enforce any liability created under this section unless brought within one year after the discovery of the facts constituting the cause of action and within three years after such cause of action accrued.

(b) The rights and remedies provided by this subchapter shall be in addition to any and all other rights and remedies that may exist under the Securities Act of 1933 [15 U.S.C. 77a et seq.], or the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], or the Public Utility Holding Company Act of 1935,¹ or otherwise at law or in equity; but no person permitted to maintain a suit for damages under the provisions of this subchapter shall recover, through satisfaction of judgment in one or more actions, a total amount in excess of his actual damages on account of the act complained of.

(May 27, 1933, ch. 38, title III, §323, as added Aug. 3, 1939, ch. 411, 53 Stat. 1176.)

REFERENCES IN TEXT

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

The Securities Exchange Act of 1934, referred to in subsec. (b), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified generally to chapter 2B (§78a et seq.) of this title. For complete classification of this Act to the Code, see section 78a of this title and Tables.

The Public Utility Holding Company Act of 1935, referred to in subsec. (b), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§79 et seq.) of this title, prior to repeal by Pub. L. 109-58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of

¹ See References in Text note below.

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.

§ 77xxx. Unlawful representations

It shall be unlawful for any person in offering, selling or issuing any security to represent or imply in any manner whatsoever that any action or failure to act by the Commission in the administration of this subchapter means that the Commission has in any way passed upon the merits of, or given approval to, any trustee, indenture or security, or any transaction or transactions therein, or that any such action or failure to act with regard to any statement or report filed with or examined by the Commission pursuant to this subchapter or any rule, regulation, or order thereunder, has the effect of a finding by the Commission that such statement or report is true and accurate on its face or that it is not false or misleading.

(May 27, 1933, ch. 38, title III, § 324, as added Aug. 3, 1939, ch. 411, 53 Stat. 1176; amended Aug. 10, 1954, ch. 667, title III, § 305, 68 Stat. 688.)

AMENDMENTS

1954—Act Aug. 10, 1954, substituted “offering, selling, or issuing” for “issuing or selling”.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 10, 1954, effective 60 days after Aug. 10, 1954, see note under section 77b 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.

§ 77yyy. Penalties

Any person who willfully violates any provision of this subchapter or any rule, regulation, or order thereunder, or any person who willfully, in any application, report, or document filed or required to be filed under the provisions of this subchapter or any rule, regulation, or order thereunder, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than \$10,000 or imprisoned not more than five years, or both.

(May 27, 1933, ch. 38, title III, § 325, as added Aug. 3, 1939, ch. 411, 53 Stat. 1177; amended Pub. L. 94-29, § 27(d), June 4, 1975, 89 Stat. 163.)

AMENDMENTS

1975—Pub. L. 94-29 substituted “\$10,000” for “\$5,000”.

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.

§ 77zzz. Effect on existing law

Except as otherwise expressly provided, nothing in this subchapter shall affect (1) the jurisdiction of the Commission under the Securities

Act of 1933 [15 U.S.C. 77a et seq.], or the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], or the Public Utility Holding Company Act of 1935,¹ over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such acts; nor shall anything in this subchapter affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person or security, insofar as such jurisdiction does not conflict with any provision of this subchapter or any rule, regulation, or order thereunder.

(May 27, 1933, ch. 38, title III, § 326, as added Aug. 3, 1939, ch. 411, 53 Stat. 1177.)

REFERENCES IN TEXT

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

The Securities Exchange Act of 1934, referred to in text, is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified generally to chapter 2B (§ 78a et seq.) of this title. For complete classification of this Act to the Code, see section 78a of this title and Tables.

The Public Utility Holding Company Act of 1935, referred to in text, is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§ 79 et seq.) of this title, prior to repeal by Pub. L. 109-58, title XII, § 1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

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.

§ 77aaaa. Contrary stipulations void

Any condition, stipulation, or provision binding any person to waive compliance with any provision of this subchapter or with any rule, regulation, or order thereunder shall be void.

(May 27, 1933, ch. 38, title III, § 327, as added Aug. 3, 1939, ch. 411, 53 Stat. 1177.)

§ 77bbbb. Separability

If any provision of this subchapter or the application of such provision to any person or circumstance shall be held invalid, the remainder of the subchapter and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(May 27, 1933, ch. 38, title III, § 328, as added Aug. 3, 1939, ch. 411, 53 Stat. 1177.)

CHAPTER 2B—SECURITIES EXCHANGES

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¹ See References in Text note below.