

Subsec. (c). Pub. L. 100-181, §208(b), amended subsec. (c) generally.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-67 not to affect or apply to any private action arising under this subchapter or title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), commenced before and pending on Dec. 22, 1995, see section 108 of Pub. L. 104-67, set out as a note under section 77l of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-429 effective Oct. 15, 1990, with provisions relating to civil penalties and accounting and disgorgement, see section 1(c)(1) and (2) of Pub. L. 101-429, set out in a note under section 77g of this title.

#### CONSTRUCTION OF 1995 AMENDMENT

Nothing in amendment by Pub. L. 104-67 to be deemed to create or ratify any implied right of action, or to prevent Commission, by rule or regulation, from restricting or otherwise regulating private actions under Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), see section 203 of Pub. L. 104-67, set out as a Construction note under section 78j-1 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.

### § 77u. Hearings by Commission

All hearings shall be public and may be held before the Commission or an officer or officers of the Commission designated by it, and appropriate records thereof shall be kept.

(May 27, 1933, ch. 38, title I, §21, 48 Stat. 86.)

#### 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.

### § 77v. Jurisdiction of offenses and suits

#### (a) Federal and State courts; venue; service of process; review; removal; costs

The district courts of the United States and the United States courts of any Territory shall have jurisdiction of offenses and violations under this subchapter and under the rules and regulations promulgated by the Commission in respect thereto, and, concurrent with State and Territorial courts, except as provided in section 77p of this title with respect to covered class actions, of all suits in equity and actions at law brought to enforce any liability or duty created by this subchapter. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291, 1292, and 1294 of title 28. Except as provided in section 77p(c) of this title, no case arising

under this subchapter and brought in any State court of competent jurisdiction shall be removed to any court of the United States. No costs shall be assessed for or against the Commission in any proceeding under this subchapter brought by or against it in the Supreme Court or such other courts.

#### (b) Contumacy or refusal to obey subpoena; contempt

In case of contumacy or refusal to obey a subpoena issued to any person, any of the said United States courts, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides, upon application by the Commission may issue to such person an order requiring such person to appear before the Commission, or one of its examiners designated by it, there to produce documentary evidence if so ordered, or there to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(May 27, 1933, ch. 38, title I, §22, 48 Stat. 86; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, §32(b), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 10, 1954, ch. 667, title I, §11, 68 Stat. 686; Pub. L. 91-452, title II, §213, Oct. 15, 1970, 84 Stat. 929; Pub. L. 100-181, title II, §209, Dec. 4, 1987, 101 Stat. 1253; Pub. L. 105-353, title I, §101(a)(3), Nov. 3, 1998, 112 Stat. 3230.)

#### CODIFICATION

As originally enacted subsec. (a) contained references to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia", and act June 25, 1948, as amended by act May 24, 1949, substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia". Pub. L. 100-181 struck out reference to the United States District Court for the District of Columbia. Previously, such reference had been editorially eliminated as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which provides that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of Title 28 which provides that "the District of Columbia constitutes one judicial district".

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-353 inserted "except as provided in section 77p of this title with respect to covered class actions," after "Territorial courts," in first sentence and substituted "Except as provided in section 77p(c) of this title, no case" for "No case" in penultimate sentence.

1987—Subsec. (a). Pub. L. 100-181 substituted "United States and" for "United States, the", struck out ", and the United States District Court for the District of Columbia" after "Territory", and substituted "sections 1254, 1291, 1292, and 1294 of title 28" for "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)". See Codification note above.

1970—Subsec. (c). Pub. L. 91-452 struck out subsec. (c) which related to immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1954—Subsec. (a). Act Aug. 10, 1954, inserted "offer or" before "sale" in second sentence.

## EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-353 not to affect or apply to any action commenced before and pending on Nov. 3, 1998, see section 101(c) of Pub. L. 105-353, set out as a note under section 77p of this title.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

## 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.

## SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

## 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.

**§ 77w. Unlawful representations**

Neither the fact that the registration statement for a security has been filed or is in effect nor the fact that a stop order is not in effect with respect thereto shall be deemed a finding by the Commission that the registration statement is true and accurate on its face or that it does not contain an untrue statement of fact or omit to state a material fact, or be held to mean that the Commission has in any way passed upon the merits of, or given approval to, such security. It shall be unlawful to make, or cause to be made to any prospective purchaser any representation contrary to the foregoing provisions of this section.

(May 27, 1933, ch. 38, title I, §23, 48 Stat. 87.)

## 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.

**§ 77x. Penalties**

Any person who willfully violates any of the provisions of this subchapter, or the rules and regulations promulgated by the Commission under authority thereof, or any person who willfully, in a registration statement filed under this subchapter, 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 I, §24, 48 Stat. 87; Pub. L. 94-29, §27(a), 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.

## 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.

**§ 77y. Jurisdiction of other Government agencies over securities**

Nothing in this subchapter shall relieve any person from submitting to the respective supervisory units of the Government of the United States information, reports, or other documents that may be required by any provision of law.

(May 27, 1933, ch. 38, title I, §25, 48 Stat. 87.)

**§ 77z. Separability**

If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this chapter, or 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 I, §26, 48 Stat. 88.)

**§ 77z-1. Private securities litigation****(a) Private class actions****(1) In general**

The provisions of this subsection shall apply to each private action arising under this subchapter that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

**(2) Certification filed with complaint****(A) In general**

Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

(i) states that the plaintiff has reviewed the complaint and authorized its filing;

(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this subchapter;

(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

(v) identifies any other action under this subchapter, filed during the 3-year period preceding the date on which the certifi-