

Section 768(a) [enacted as section 766(c)] requires the trustee to return specifically identifiable property to the extent that such distribution will not exceed a customer's net equity claim. Thus, if the customer owes money to a commodity broker, this will be offset under section 761(15)(A)(ii). If the value of the specifically identifiable property exceeds the net equity claim, then the customer may deposit cash with the trustee to make up the difference after which the trustee may return or transfer the customer's property.

Subsection (c) [enacted as section 766(a)] permits the trustee to answer all margin calls, to the extent of the customer's net equity claim, with respect to any specifically identifiable open contractual commitment. It should be noted that any payment under subsections (a) or (c) will be considered a reduction of the net equity claim under section 767(a). Thus the customer's net equity claim is a dynamic amount that varies with distributions of specifically identifiable property or margin payments on such property. This approach differs from the priority given to specifically identifiable property under subchapter III of chapter 7 by limiting the priority effect to a right to receive specific property as part of, rather than in addition to, a ratable share of customer property. This policy is designed to protect the small customer who is unlikely to have property in specifically identifiable form as compared with the professional trader. The CFTC is authorized to make rules defining specifically identifiable property under section 302 of the bill, in title III.

AMENDMENTS

1984—Subsec. (j)(2). Pub. L. 98-353 substituted "section 726" for "section 726(a)".

1982—Subsec. (a). Pub. L. 97-222, §19(a), inserted "to such customer" after "distribution".

Subsec. (b). Pub. L. 97-222, §19(b), struck out "that is being actively traded as of the date of the filing of the petition" after "any open commodity contract" and inserted "the" after "rules of".

Subsec. (d). Pub. L. 97-222, §19(c), substituted "the amount to which the customer of the debtor is entitled under subsection (h) or (i) of this section, then such" for "such amount, then the" and "the trustee then shall" for "the trustee shall".

Subsec. (h). Pub. L. 97-222, §19(d), inserted provision that notwithstanding any other provision of this subsection, a customer net equity claim based on a proprietary account, as defined by Commission rule, regulation, or order, may not be paid either in whole or in part, directly or indirectly, out of customer property unless all other customer net equity claims have been paid in full.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 365, 702, 761, 765 of this title; title 7 section 24.

CHAPTER 9—ADJUSTMENT OF DEBTS OF A MUNICIPALITY

SUBCHAPTER I—GENERAL PROVISIONS

| | |
|------|-------------------------------------------------------|
| Sec. | |
| 901. | Applicability of other sections of this title. |
| 902. | Definitions for this chapter. |
| 903. | Reservation of State power to control municipalities. |
| 904. | Limitation on jurisdiction and powers of court. |

SUBCHAPTER II—ADMINISTRATION

| | |
|------|-------------------------------------------------------------|
| 921. | Petition and proceedings relating to petition. |
| 922. | Automatic stay of enforcement of claims against the debtor. |

| | |
|------|--------------------------------------------|
| Sec. | |
| 923. | Notice. |
| 924. | List of creditors. |
| 925. | Effect of list of claims. |
| 926. | Avoiding powers. |
| 927. | Limitation on recourse. |
| 928. | Post petition effect of security interest. |
| 929. | Municipal leases. |
| 930. | Dismissal. |

SUBCHAPTER III—THE PLAN

| | |
|------|---------------------------------------------------------------------------------|
| 941. | Filing of plan. |
| 942. | Modification of plan. |
| 943. | Confirmation. |
| 944. | Effect of confirmation. |
| 945. | Continuing jurisdiction and closing of the case. |
| 946. | Effect of exchange of securities before the date of the filing of the petition. |

AMENDMENTS

1988—Pub. L. 100-597, §11, Nov. 3, 1988, 102 Stat. 3030, added items 927 to 929 and redesignated former item 927 as 930.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 103, 109, 347, 362, 365, 502, 503 of this title; title 28 section 1930.

SUBCHAPTER I—GENERAL PROVISIONS

§ 901. Applicability of other sections of this title

(a) Sections 301, 344, 347(b), 349, 350(b), 361, 362, 364(c), 364(d), 364(e), 364(f), 365, 366, 501, 502, 503, 504, 506, 507(a)(1), 509, 510, 524(a)(1), 524(a)(2), 544, 545, 546, 547, 548, 549(a), 549(c), 549(d), 550, 551, 552, 553, 557, 1102, 1103, 1109, 1111(b), 1122, 1123(a)(1), 1123(a)(2), 1123(a)(3), 1123(a)(4), 1123(a)(5), 1123(b), 1124, 1125, 1126(a), 1126(b), 1126(c), 1126(e), 1126(f), 1126(g), 1127(d), 1128, 1129(a)(2), 1129(a)(3), 1129(a)(6), 1129(a)(8), 1129(a)(10), 1129(b)(1), 1129(b)(2)(A), 1129(b)(2)(B), 1142(b), 1143, 1144, and 1145 of this title apply in a case under this chapter.

(b) A term used in a section of this title made applicable in a case under this chapter by subsection (a) of this section or section 103(e) of this title has the meaning defined for such term for the purpose of such applicable section, unless such term is otherwise defined in section 902 of this title.

(c) A section made applicable in a case under this chapter by subsection (a) of this section that is operative if the business of the debtor is authorized to be operated is operative in a case under this chapter.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2621; Pub. L. 98-353, title III, §§353, 490, July 10, 1984, 98 Stat. 361, 383; Pub. L. 100-597, §3, Nov. 3, 1988, 102 Stat. 3028.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Chapter 9 of the House amendment represents a compromise between chapter 9 of the House bill and 9 of the Senate amendment. In most respects this chapter follows current law with respect to the adjustment of debts of a municipality. Stylistic changes and minor substantive revisions have been made in order to conform this chapter with other new chapters of the bankruptcy code. There are few major differences between the House bill and the Senate amendment on this issue. Section 901 indicates the applicability of other sections of title 11 in cases under chapter 9. Included are sec-