

REFERENCES IN TEXT

The Wall Street Transparency and Accountability Act of 2010, referred to in text, is title VII of Pub. L. 111-203, July 21, 2010, 124 Stat. 1641, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 8301 of this title and Tables.

The Commodity Exchange Act, referred to in text, is act Sept. 21, 1922, ch. 369, 42 Stat. 998, which is classified generally to chapter 1 (§1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

§ 8323. Rulemaking on conflict of interest**(a) In general**

In order to mitigate conflicts of interest, not later than 180 days after July 21, 2010, the Commodity Futures Trading Commission shall adopt rules which may include numerical limits on the control of, or the voting rights with respect to, any derivatives clearing organization that clears swaps, or swap execution facility or board of trade designated as a contract market that posts swaps or makes swaps available for trading, by a bank holding company (as defined in section 1841 of title 12) with total consolidated assets of \$50,000,000,000 or more, a nonbank financial company (as defined in section 5311 of title 12) supervised by the Board, an affiliate of such a bank holding company or nonbank financial company, a swap dealer, major swap participant, or associated person of a swap dealer or major swap participant.

(b) Purposes

The Commission shall adopt rules if it determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a swap dealer or major swap participant's conduct of business with, a derivatives clearing organization, contract market, or swap execution facility that clears or posts swaps or makes swaps available for trading and in which such swap dealer or major swap participant has a material debt or equity investment.

(c) Considerations

In adopting rules pursuant to this section, the Commodity Futures Trading Commission shall consider any conflicts of interest arising from the amount of equity owned by a single investor, the ability to vote, cause the vote of, or withhold votes entitled to be cast on any matters by the holders of the ownership interest, and the governance arrangements of any derivatives clearing organization that clears swaps, or swap execution facility or board of trade designated as a contract market that posts swaps or makes swaps available for trading.

(Pub. L. 111-203, title VII, §726, July 21, 2010, 124 Stat. 1695.)

DEFINITIONS

For definitions of terms used in this section, see section 5301 of Title 12, Banks and Banking.

§ 8324. Savings clause

Notwithstanding any other provision of this title,¹ nothing in this subtitle shall be construed as divesting any appropriate Federal banking agency of any authority it may have to establish or enforce, with respect to a person for which such agency is the appropriate Federal banking agency, prudential or other standards pursuant to authority granted by Federal law other than this title.¹

(Pub. L. 111-203, title VII, §741(c), July 21, 2010, 124 Stat. 1732.)

REFERENCES IN TEXT

This title, referred to in text, is title VII of Pub. L. 111-203, July 21, 2010, 124 Stat. 1641, known as the Wall Street Transparency and Accountability Act of 2010, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of title VII to the Code, see Short Title note set out under section 8301 of this title and Tables.

This subtitle, referred to in text, is subtitle A (§§711-754) of title VII of Pub. L. 111-203, July 21, 2010, 124 Stat. 1641, which enacted this subchapter, section 78c-2 of this title, and sections 1b, 6b-1, 6r to 6t, 7b-3, 24a, and 26 of Title 7, Agriculture, amended sections 78f, 78o, and 78s of this title, sections 1a, 2, 6 to 6b, 6c, 6d, 6m, 6q, 6s, 7 to 7b, 8 to 9a, 12, 12a, 13, 13-1, 13a-1, 13b, 15, 16, 21, 24, 25, 27 to 27b, 27e, and 27f of Title 7, section 761 of Title 11, Bankruptcy, and sections 4421 and 4422 of Title 12, Banks and Banking, enacted provisions set out as notes under sections 1a, 2, 6a, 7a-1, 7a-3, and 9 of Title 7, and amended provisions set out as a note under section 78c of this title. For complete classification of subtitle A to the Code, see Tables.

DEFINITIONS

For definitions of terms used in this section, see section 5301 of Title 12, Banks and Banking.

§ 8325. International harmonization

(a) In order to promote effective and consistent global regulation of swaps and security-based swaps, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the prudential regulators (as that term is defined in section 1a(39) of title 7), as appropriate, shall consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation (including fees) of swaps, security-based swaps, swap entities, and security-based swap entities and may agree to such information-sharing arrangements as may be deemed to be necessary or appropriate in the public interest or for the protection of investors, swap counterparties, and security-based swap counterparties.

(b) In order to promote effective and consistent global regulation of contracts of sale of a commodity for future delivery and options on such contracts, the Commodity Futures Trading Commission shall consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of contracts of sale of a commodity for future delivery and options on such contracts, and may agree to such information-sharing arrangements as may be deemed

¹ See References in Text note below.

necessary or appropriate in the public interest for the protection of users of contracts of sale of a commodity for future delivery.

(Pub. L. 111-203, title VII, §752, July 21, 2010, 124 Stat. 1749.)

DEFINITION

For definition of “including” as used in this section, see section 5301 of Title 12, Banks and Banking.

SUBCHAPTER II—REGULATION OF SECURITY-BASED SWAP MARKETS

§ 8341. Authority to further define terms

The Securities and Exchange Commission may, by rule, further define—

- (1) the term “commercial risk”;
- (2) any other term included in an amendment to the Securities Exchange Act of 1934¹ (15 U.S.C. 78c(a)) made by this subtitle; and
- (3) the terms “security-based swap”, “security-based swap dealer”, “major security-based swap participant”, and “eligible contract participant”, with regard to security-based swaps (as such terms are defined in the amendments made by subsection (a)) for the purpose of including transactions and entities that have been structured to evade this subtitle or the amendments made by this subtitle.

(Pub. L. 111-203, title VII, §761(b), July 21, 2010, 124 Stat. 1759.)

REFERENCES IN TEXT

This subtitle, referred to in pars. (2) and (3), is subtitle B (§§761-774) of title VII of Pub. L. 111-203, July 21, 2010, 124 Stat. 1754, which enacted this subchapter and sections 78c-3 to 78c-5, 78j-2, 78m-1, and 78o-10 of this title, amended sections 77b, 77b-1, 77e, 77q, 78c, 78c-1, 78f, 78i, 78j, 78m, 78o, 78p, 78q-1, 78t, 78u-1, 78u-2, 78bb, 78dd, 78mm, 80a-2, and 80b-2 of this title, enacted provisions set out as a note under section 77b of this title, and amended provisions set out as a note under section 78c of this title. For complete classification of subtitle B to the Code, see Tables.

Subsection (a), referred to in par. (3), is subsec. (a) of section 761 of title VII of Pub. L. 111-203, July 21, 2010, 124 Stat. 1754, which amended section 78c of this title.

EFFECTIVE DATE

Provisions of subchapter effective on the later of 360 days after July 21, 2010, or, to the extent the provision requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision, see section 774 of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 77b of this title.

DEFINITION

For definition of “including” as used in this section, see section 5301 of Title 12, Banks and Banking.

§ 8342. Savings clause

Notwithstanding any other provision of this title,¹ nothing in this subtitle shall be construed as divesting any appropriate Federal banking agency of any authority it may have to establish or enforce, with respect to a person for which such agency is the appropriate Federal banking agency, prudential or other standards

¹ So in original. Probably should be “section 3(a) of the Securities Exchange Act of 1934”.

¹ See References in Text note below.

pursuant to authority by Federal law other than this title.¹

(Pub. L. 111-203, title VII, §764(b), July 21, 2010, 124 Stat. 1796.)

REFERENCES IN TEXT

This title, referred to in text, is title VII of Pub. L. 111-203, July 21, 2010, 124 Stat. 1641, known as the Wall Street Transparency and Accountability Act of 2010, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of title VII to the Code, see Short Title note set out under section 8301 of this title and Tables.

This subtitle, referred to in text, is subtitle B (§§761-774) of title VII of Pub. L. 111-203, July 21, 2010, 124 Stat. 1754, which enacted this subchapter and sections 78c-3 to 78c-5, 78j-2, 78m-1, and 78o-10 of this title, amended sections 77b, 77b-1, 77e, 77q, 78c, 78c-1, 78f, 78i, 78j, 78m, 78o, 78p, 78q-1, 78t, 78u-1, 78u-2, 78bb, 78dd, 78mm, 80a-2, and 80b-2 of this title, enacted provisions set out as a note under section 77b of this title, and amended provisions set out as a note under section 78c of this title. For complete classification of subtitle B to the Code, see Tables.

DEFINITIONS

For definitions of terms used in this section, see section 5301 of Title 12, Banks and Banking.

§ 8343. Rulemaking on conflict of interest

(a) In general

In order to mitigate conflicts of interest, not later than 180 days after July 21, 2010, the Securities and Exchange Commission shall adopt rules which may include numerical limits on the control of, or the voting rights with respect to, any clearing agency that clears security-based swaps, or on the control of any security-based swap execution facility or national securities exchange that posts or makes available for trading security-based swaps, by a bank holding company (as defined in section 1841 of title 12) with total consolidated assets of \$50,000,000,000 or more, a nonbank financial company (as defined in section 5311 of title 12) supervised by the Board of Governors of the Federal Reserve System, affiliate of such a bank holding company or nonbank financial company, a security-based swap dealer, major security-based swap participant, or person associated with a security-based swap dealer or major security-based swap participant.

(b) Purposes

The Securities and Exchange Commission shall adopt rules if the Commission determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a security-based swap dealer or major security-based swap participant's conduct of business with, a clearing agency, national securities exchange, or security-based swap execution facility that clears, posts, or makes available for trading security-based swaps and in which such security-based swap dealer or major security-based swap participant has a material debt or equity investment.

(c) Considerations

In adopting rules pursuant to this section, the Securities and Exchange Commission shall con-