

of the Securities Exchange Act of 1934 [15 U.S.C. 78o-5] or any amendment made by this title [amending this section and sections 78c, 78o, 78o-3, 78s, and 78w of this title], and any national securities association rule changes applicable principally to government securities transactions approved after October 1, 1991—

“(A) evaluate the effectiveness of such rules in carrying out the purposes of such Act [15 U.S.C. 78a et seq.]; and

“(B) evaluate the impact of any such rules on the efficiency and liquidity of the government securities market and the cost of funding the Federal debt;

“(2) evaluate the effectiveness of surveillance and enforcement with respect to government securities, and the impact on such surveillance and enforcement of the availability of automated, time-sequenced records of essential information pertaining to trades in such securities; and

“(3) submit to the Congress, not later than March 31, 1998, any recommendations they may consider appropriate concerning—

“(A) the regulation of government securities brokers and government securities dealers;

“(B) the dissemination of information concerning quotations for and transactions in government securities;

“(C) the prevention of sales practice abuses in connection with transactions in government securities; and

“(D) such other matters as they consider appropriate.

“(b) TREASURY STUDY.—The Secretary of the Treasury, in consultation with the Securities and Exchange Commission, shall—

“(1) conduct a study of—

“(A) the identity and nature of the business of government securities brokers and government securities dealers that are registered with the Securities and Exchange Commission under section 15C of the Securities Exchange Act of 1934 [15 U.S.C. 78o-5]; and

“(B) the continuing need for, and regulatory and financial consequences of, a separate regulatory system for such government securities brokers and government securities dealers; and

“(2) submit to the Congress, not later than 18 months after the date of enactment of this Act [Dec. 17, 1993], the Secretary's recommendations for change, if any, or such other recommendations as the Secretary considers appropriate.”

STUDIES AND RECOMMENDATIONS WITH RESPECT TO EXTENSION OF TREASURY AUTHORITY

Section 103 of Pub. L. 99-571 directed Secretary of the Treasury, together with Securities and Exchange Commission and Board of Governors of the Federal Reserve System, to evaluate the effectiveness of the rules promulgated pursuant to 15 U.S.C. 78o-5 in effecting the purposes of this chapter, and shall submit to Congress, not later than Oct. 1, 1990, their recommendation with respect to the extension of the Secretary's authority under 15 U.S.C. 78o-5 and such other recommendations as they considered appropriate; and directed Comptroller General to conduct a study of the regulation of government securities brokers and government securities dealers pursuant to 15 U.S.C. 78o-5 and the effectiveness of the amendments made by this Act in protecting investors and in effecting the purposes described in 15 U.S.C. 78o-5(b)(2), and submit to Congress, not later than Mar. 31, 1990, his recommendations with respect to the extension of the Secretary's authority under 15 U.S.C. 78o-5 and such other recommendations as he considered appropriate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 78c, 78o, 78u-2, 78y, 78mm, 78lll of this title; title 7 sections 1a, 2; title 26 sections 901, 954.

§ 78p. Directors, officers, and principal stockholders

(a) Filing of statement of all ownership of securities of issuer by owner of more than ten per centum of any class of security

Every person who is directly or indirectly the beneficial owner of more than 10 per centum of any class of any equity security (other than an exempted security) which is registered pursuant to section 78l of this title, or who is a director or an officer of the issuer of such security, shall file, at the time of the registration of such security on a national securities exchange or by the effective date of a registration statement filed pursuant to section 78l(g) of this title, or within ten days after he becomes such beneficial owner, director, or officer, a statement with the Commission (and, if such security is registered on a national securities exchange, also with the exchange) of the amount of all equity securities of such issuer of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security during such month, shall file with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement indicating his ownership at the close of the calendar month and such changes in his ownership and such purchases and sales of such security-based swap agreements as have occurred during such calendar month.

(b) Profits from purchase and sale of security within six months

For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director, or officer by reason of his relationship to the issuer, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such issuer (other than an exempted security) or a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving any such equity security within any period of less than six months, unless such security or security-based swap agreement was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security or security-based swap agreement purchased or of not repurchasing the security or security-based swap agreement sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This subsection shall not be con-

strued to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purpose of this subsection.

(c) Conditions for sale of security by beneficial owner, director, or officer

It shall be unlawful for any such beneficial owner, director, or officer, directly or indirectly, to sell any equity security of such issuer (other than an exempted security), if the person selling the security or his principal (1) does not own the security sold, or (2) if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this subsection if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

(d) Securities held in investment account, transactions in ordinary course of business, and establishment of primary or secondary market

The provisions of subsection (b) of this section shall not apply to any purchase and sale, or sale and purchase, and the provisions of subsection (c) of this section shall not apply to any sale, of an equity security not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on a national securities exchange or an exchange exempted from registration under section 78e of this title) for such security. The Commission may, by such rules and regulations as it deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

(e) Application of section to foreign or domestic arbitrage transactions

The provisions of this section shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the Commission may adopt in order to carry out the purposes of this section.

(f) Treatment of transactions in security futures products

The provisions of this section shall apply to ownership of and transactions in security futures products.

(g) Limitation on Commission authority

The authority of the Commission under this section with respect to security-based swap agreements (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be subject to the restrictions and limitations of section 78c-1(b) of this title.

(June 6, 1934, ch. 404, title I, §16, 48 Stat. 896; Pub. L. 88-467, §8, Aug. 20, 1964, 78 Stat. 579; Pub. L. 106-554, §1(a)(5) [title II, §208(b)(3), title III, §303(g), (h)], Dec. 21, 2000, 114 Stat. 2763, 2763A-435, 2763A-455, 2763A-456.)

REFERENCES IN TEXT

Section 206B of the Gramm-Leach-Bliley Act, referred to in subsecs. (a), (b), and (g), is section 206B of Pub. L. 106-102, which is set out in a note under section 78c of this title.

AMENDMENTS

2000—Subsecs. (a), (b). Pub. L. 106-554, §1(a)(5) [title III, §303(g)], amended subsecs. (a) and (b) generally, revising provisions to extend application to security-based swap agreements.

Subsec. (f). Pub. L. 106-554, §1(a)(5) [title II, §208(b)(3)], added subsec. (f).

Subsec. (g). Pub. L. 106-554, §1(a)(5) [title III, §303(h)], added subsec. (g).

1964—Subsec. (a). Pub. L. 88-467, §8(a), substituted “registered pursuant to section 78l of this title” for “registered on a national securities exchange”, “Commission (and, if such security is registered on a national securities exchange, also with the exchange)” for “exchange (and a duplicate original thereof with the Commission)”, “a change” for “any change”, and “Commission (and if such security is registered on a national securities exchange, shall also file with the exchange) a statement” for “exchange a statement (and a duplicate original thereof with the Commission)”, and inserted “on a national securities exchange or by the effective date of a registration statement filed pursuant to section 78l(g) of this title” after “registration of such security”.

Subsecs. (d), (e). Pub. L. 88-467, §8(b), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-467 effective Aug. 20, 1964, see section 13 of Pub. L. 88-467, set out as a note under section 78c 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 78c, 78c-1, 78j, 78l, 78hh, 79q of this title; title 26 section 83.

§ 78q. Records and reports

(a) Rules and regulations

(1) Every national securities exchange, member thereof, broker or dealer who transacts a business in securities through the medium of any such member, registered securities association, registered broker or dealer, registered municipal securities dealer, registered securities information processor, registered transfer agent, and registered clearing agency and the Municipal Securities Rulemaking Board shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this chapter.

(2) Every registered clearing agency shall also make and keep for prescribed periods such rec-