(2)(A) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who willfully violates subsection (a) or (g) of section 78dd–1 of this title shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

(B) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates subsection (a) or (g) of section 78dd–1 of this title shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of an issuer, such fine may not be paid, directly or indirectly, by such issuer.

(June 6, 1934, ch. 404, title I, § 32, 48 Stat. 904; May 27, 1936, ch. 462, § 9, 49 Stat. 1380; June 25, 1938, ch. 677, § 4, 52 Stat. 1076; Pub. L. 88–467, § 11, Aug. 20, 1964, 78 Stat. 580; Pub. L. 94–29, §§ 23, 27(b), June 4, 1975, 89 Stat. 162, 163; Pub. L. 95–213, title I, § 103(b), Dec. 19, 1977, 91 Stat. 1496; Pub. L. 98–376, § 3, Aug. 10, 1984, 98 Stat. 1265; Pub. L. 100–418, title V, § 5003(b), Aug. 23, 1988, 102 Stat. 1419; Pub. L. 100–704, § 4, Nov. 19, 1988, 102 Stat. 4680; Pub. L. 105–366, § 2(d), Nov. 10, 1998, 112 Stat. 3303; Pub. L. 107–204, title XI, § 1106, July 30, 2002, 116 Stat. 810.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this title''. See References in Text note set out under section 78a of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–204 substituted ''$5,000,000, or imprisoned not more than 20 years'' for ''$1,000,000, or imprisoned not more than 10 years'' and ''$25,000,000'' for ''$2,500,000''.

1998—Subsec. (c)(1). Pub. L. 105–366, § 2(d)(1), (2), substituted ''subsection (a) or (g) of section 78dd–1'' for ''section 78dd–1(a)'' in subpars. (A) and (B).

Subsec. (c)(2). Pub. L. 105–366, § 2(d)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(2)(A) Any officer or director of an issuer, or stockholder acting on behalf of such issuer, who willfully violates section 78dd–1(a) of this title shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

''(B) Any employee or agent of an issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such issuer), and who willfully violates section 78dd–1(a) of this title, shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

''(C) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates section 78dd–1(a) of this title shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.''

1988—Subsec. (a). Pub. L. 100–704 substituted ''$1,000,000'' for ''$100,000'', ''10 years'' for ''five years'', ''is a person other than a natural person'' for ''is an exchange'', and ''$2,500,000'' for ''$500,000''.

Subsec. (c). Pub. L. 100–418 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

''(1) Any issuer which violates section 78dd–1(a) of this title shall, upon conviction, be fined not more than $1,000,000.

''(2) Any officer or director of an issuer, or any stockholder acting on behalf of such issuer, who willfully violates section 78dd–1(a) of this title shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

''(3) Whenever an issuer is found to have violated section 78dd–1(a) of this title, any employee or agent of such issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder of such issuer), and who willfully carried out the act or practice constituting such violation shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

''(4) Whenever a fine is imposed under paragraph (2) or (3) of this subsection upon any officer, director, stockholder, employee, or agent of an issuer, such fine shall not be paid, directly or indirectly, by such issuer.''

1984—Subsec. (a). Pub. L. 98–376 substituted ''$100,000'' for ''$10,000''.

1977—Subsec. (a). Pub. L. 95–213, § 103(b)(1), inserted ''(other than section 78dd–1 of this title)'' after ''Any person who willfully violates any provision of this chapter''.

Subsec. (c). Pub. L. 95–213, § 103(b)(2), added subsec. (c).

1975—Subsec. (a). Pub. L. 94–29, §§ 23(1), 27(b), inserted ''or by any self-regulatory organization in connection with an application for membership or participation therein or to become associated with a member thereof,'' and substituted ''or imprisoned not more than five years'' for ''or imprisoned not more than two years''.

Subsec. (c). Pub. L. 94–29, § 23(2), struck out subsec. (c) which rendered this section inapplicable to violations of any rule or regulation prescribed pursuant to paragraph (3) of subsection (c) of section 78*o* of this title.

1964—Subsec. (b). Pub. L. 88–467 substituted ''required to be filed under'' for ''pursuant to an undertaking contained in a registration statement as provided in'' and inserted ''or any rule or regulation thereunder'' after ''section 78*o* of this title.''

1938—Subsec. (c). Act June 25, 1938, added subsec. (c).

1936—Subsec. (a). Act May 27, 1936, inserted ''or any undertaking contained in a registration statement as provided in subsection (d) of section 78*o* of this title''.

Subsec. (b). Act May 27, 1936, added subsec. (b).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–704 not applicable to actions occurring before Nov. 19, 1988, see section 9 of Pub. L. 100–704, set out as a note under section 78*o* of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–376 effective Aug. 10, 1984, see section 7 of Pub. L. 98–376, set out as a note under section 78c of this title.

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 12a; title 22 section 2197; title 26 sections 162, 952, 964.

§ 78gg. Separability

If any provision of this chapter, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the chapter 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.

(June 6, 1934, ch. 404, title I, § 33, 48 Stat. 905.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act''. See References in Text note set out under section 78a of this title.

§ 78hh. Effective date

This chapter shall become effective on July 1, 1934, except that sections 78f and 78*l*(b to e) of this title shall become effective on September 1, 1934; and sections 78e, 78g, 78h, 78i(a)(6), 78j, 78k, 78*l*(a), 78m, 78n, 78*o*, 78p, 78q, 78r, 78s, and 78dd of this title shall become effective on October 1, 1934.

(June 6, 1934, ch. 404, title I, § 34, 48 Stat. 905.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''This Act''. See References in Text note set out under section 78a of this title.

§ 78hh–1. Effective date of certain sections

This Act shall become effective on May 27, 1936; except that clause (2) of subsection (f) of section 78*l* of this title, and subsections (a) and (d) of section 78*o* of this title, shall become effective ninety days after May 27, 1936, and that clause (3) of subsection (f) of section 78*l* of this title shall become effective six months after May 27, 1936.

(May 27, 1936, ch. 462, § 12, 49 Stat. 1380.)

REFERENCES IN TEXT

This Act, referred to in text, is act May 27, 1936, ch. 462, 49 Stat. 1375, popularly known as the Unlisted Securities Trading Act, which enacted sections 78*l*–1, 78*o*–1, 78*o*–2, and 78hh–1 of this title, and amended sections 78*l*, 78*o*, 78q, 78r, 78t, 78u, 78w, and 78ff of this title.

CODIFICATION

Section was not enacted as a part of the Securities Exchange Act of 1934 which comprises this chapter.

§ 78ii. Omitted

CODIFICATION

Section, act June 6, 1934, ch. 404, title II, § 210, 48 Stat. 908, transferred the powers, duties and functions of the Federal Trade Commission under subchapter I of chapter 2A of this title to the Securities and Exchange Commission. Pending proceedings before the Federal Trade Commission were continued before the Securities and Exchange Commission.

§ 78jj. Repealed. Pub. L. 100–181, title III, § 330, Dec. 4, 1987, 101 Stat. 1259

Section, act June 6, 1934, ch. 404, title II, § 211, 48 Stat. 909, provided for a study and report by Securities and Exchange Commission of reorganization proceedings. Study as basis for Trust Indenture Act of 1939, see section 77bbb of this title.

§ 78kk. Authorization of appropriations

In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, $776,000,000 for fiscal year 2003, of which—

(1) $102,700,000 shall be available to fund additional compensation, including salaries and benefits, as authorized in the Investor and Capital Markets Fee Relief Act (Public Law 107–123; 115 Stat. 2390 et seq.);

(2) $108,400,000 shall be available for information technology, security enhancements, and recovery and mitigation activities in light of the terrorist attacks of September 11, 2001; and

(3) $98,000,000 shall be available to add not fewer than an additional 200 qualified professionals to provide enhanced oversight of auditors and audit services required by the Federal securities laws, and to improve Commission investigative and disciplinary efforts with respect to such auditors and services, as well as for additional professional support staff necessary to strengthen the programs of the Commission involving Full Disclosure and Prevention and Suppression of Fraud, risk management, industry technology review, compliance, inspections, examinations, market regulation, and investment management.

(June 6, 1934, ch. 404, title I, § 35, as added Pub. L. 94–29, § 24, June 4, 1975, 89 Stat. 162; amended Pub. L. 95–20, Apr. 13, 1977, 91 Stat. 47; Pub. L. 95–211, Dec. 19, 1977, 91 Stat. 1492; Pub. L. 95–425, § 1, Oct. 6, 1978, 92 Stat. 962; Pub. L. 96–477, title IV, § 401, Oct. 21, 1980, 94 Stat. 2291; Pub. L. 100–181, title I, § 101, Dec. 4, 1987, 101 Stat. 1249; Pub. L. 100–704, § 8, Nov. 19, 1988, 102 Stat. 4683; Pub. L. 101–550, title I, § 102, Nov. 15, 1990, 104 Stat. 2713; Pub. L. 104–290, title IV, § 403, Oct. 11, 1996, 110 Stat. 3441; Pub. L. 105–353, title II, § 201, Nov. 3, 1998, 112 Stat. 3233; Pub. L. 107–204, title VI, § 601, July 30, 2002, 116 Stat. 793.)

REFERENCES IN TEXT

The Investor and Capital Markets Fee Relief Act, referred to in par. (1), is Pub. L. 107–123, Jan. 16, 2002, 115 Stat. 2390. For complete classification of this Act to the Code, see Short Title of 2002 Amendments note set out under section 78a of this title and Tables.

AMENDMENTS

2002—Pub. L. 107–204 reenacted section catchline without change and amended text generally, updating fiscal year from 1999 to 2003, striking out subsec. designations, and substituting provisions relating to funding of additional compensation, terrorist-related information technology, security enhancements, and recovery and mitigation activities, and an additional 200 qualified professionals to provide enhanced oversight for provisions relating to miscellaneous expenses such as meetings and official functions.

1998—Pub. L. 105–353 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission $300,000,000 for fiscal year 1997, in addition to any other funds authorized to be appropriated to the Commission.''

1996—Pub. L. 104–290 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission—

''(1) $178,023,000 for the fiscal year ending September 30, 1990; and

''(2) $212,609,000 for the fiscal year ending September 30, 1991.''

1990—Pub. L. 101–550 amended section generally, substituting present provisions for former provisions which provided for fiscal years 1988 and 1989: in subsec. (a), for authorization of appropriations for the Commission; in subsec. (b), for amounts for the EDGAR system; and in subsec. (c), for amounts for reception and representation expenses and for membership in the International Organization of Securities Commissions.