

sections (a) and (b), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap agreement pursuant to subsections (a) and (b), except that the master agreement shall be considered to be a swap agreement only with respect to each agreement, contract, or transaction under the master agreement that is a swap agreement pursuant to subsections (a) and (b).

“SEC. 206B. SECURITY-BASED SWAP AGREEMENT.

“As used in this section, the term ‘security-based swap agreement’ means a swap agreement (as defined in section 206A) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein.

“SEC. 206C. NON-SECURITY-BASED SWAP AGREEMENT.

“As used in this section, the term ‘non-security-based swap agreement’ means any swap agreement (as defined in section 206A) that is not a security-based swap agreement (as defined in section 206B).”

§ 78c-1. Swap agreements

(a) Non-security-based swap agreements

The definition of “security” in section 78c(a)(10) of this title does not include any non-security-based swap agreement (as defined in section 206C of the Gramm-Leach-Bliley Act).

(b) Security-based swap agreements

(1) The definition of “security” in section 78c(a)(10) of this title does not include any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act).

(2) The Commission is prohibited from registering, or requiring, recommending, or suggesting, the registration under this chapter of any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act). If the Commission becomes aware that a registrant has filed a registration application with respect to such a swap agreement, the Commission shall promptly so notify the registrant. Any such registration with respect to such a swap agreement shall be void and of no force or effect.

(3) Except as provided in section 78p(a) of this title with respect to reporting requirements, the Commission is prohibited from—

(A) promulgating, interpreting, or enforcing rules; or

(B) issuing orders of general applicability;

under this chapter in a manner that imposes or specifies reporting or recordkeeping requirements, procedures, or standards as prophylactic measures against fraud, manipulation, or insider trading with respect to any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act).

(4) References in this chapter to the “purchase” or “sale” of a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) shall be deemed to mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap agreement, as the context may require.

(June 6, 1934, ch. 404, title I, §3A, as added Pub. L. 106-554, §1(a)(5) [title III, §303(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-452.)

REFERENCES IN TEXT

Sections 206B and 206C of the Gramm-Leach-Bliley Act, referred to in text, are sections 206B and 206C of Pub. L. 106-102, which are set out in a note under section 78c of this title.

This chapter, referred to in subsec. (b)(2) to (4), was in the original “this title”. See References in Text note set out under section 78a of this title.

§ 78d. Securities and Exchange Commission

(a) Establishment; composition; limitations on commissioners; terms of office

There is hereby established a Securities and Exchange Commission (hereinafter referred to as the “Commission”) to be composed of five commissioners to be appointed by the President by and with the advice and consent of the Senate. Not more than three of such commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable. No commissioner shall engage in any other business, vocation, or employment than that of serving as commissioner, nor shall any commissioner participate, directly or indirectly, in any stock-market operations or transactions of a character subject to regulation by the Commission pursuant to this chapter. Each commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the commissioners first taking office after June 6, 1934, shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after June 6, 1934.

(b) Appointment and compensation of staff and leasing authority

(1) Appointment and compensation

The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5.

(2) Reporting of information

In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1833b of title 12 and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.

(3) Leasing authority

Notwithstanding¹ any other provision of law, the Commission is authorized to enter di-

¹ So in original. Probably should be “Notwithstanding”.