Sec.
108. Extension of time.
109. Who may be a debtor.
110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
111. Nonprofit budget and credit counseling agencies; financial management instructional courses.
112. Prohibition on disclosure of name of minor children.

AMENDMENTS

2005—Pub. L. 109–8, title I, § 106(e)(2), title II, § 233(b), Apr. 20, 2005, 119 Stat. 41, 74, added items 111 and 112.

1994—Pub. L. 103–394, title III, § 308(b), Oct. 22, 1994, 108 Stat. 4137, added item 110.

§ 101. Definitions

In this title the following definitions shall apply:

(1) The term ''accountant'' means accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized.

(2) The term ''affiliate'' means—

(A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

(D) entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

(3) The term ''assisted person'' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000.

(4) The term ''attorney'' means attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law.

(4A) The term ''bankruptcy assistance'' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a case or proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title.

(5) The term ''claim'' means—

(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

(6) The term ''commodity broker'' means futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer, as defined in section 761 of this title, with respect to which there is a customer, as defined in section 761 of this title.

(7) The term ''community claim'' means claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) of this title is liable, whether or not there is any such property at the time of the commencement of the case.

(7A) The term ''commercial fishing operation'' means—

(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A).

(7B) The term ''commercial fishing vessel'' means a vessel used by a family fisherman to carry out a commercial fishing operation.

(8) The term ''consumer debt'' means debt incurred by an individual primarily for a personal, family, or household purpose.

(9) The term ''corporation''—

(A) includes—

(i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

(ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

(iii) joint-stock company;

(iv) unincorporated company or association; or

(v) business trust; but

(B) does not include limited partnership.

(10) The term ''creditor'' means—

(A) entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

(B) entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h) or 502(i) of this title; or

(C) entity that has a community claim.

(10A) The term ''current monthly income''—

(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism.

(11) The term ''custodian'' means—

(A) receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

(B) assignee under a general assignment for the benefit of the debtor's creditors; or

(C) trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors.

(12) The term ''debt'' means liability on a claim.

(12A) The term ''debt relief agency'' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.

(13) The term ''debtor'' means person or municipality concerning which a case under this title has been commenced.

(13A) The term ''debtor's principal residence''—

(A) means a residential structure if used as the principal residence by the debtor, including incidental property, without regard to whether that structure is attached to real property; and

(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer if used as the principal residence by the debtor.

(14) The term ''disinterested person'' means a person that—

(A) is not a creditor, an equity security holder, or an insider;

(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason.

(14A) The term ''domestic support obligation'' means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

(A) owed to or recoverable by—

(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

(ii) a governmental unit;

(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

(C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

(i) a separation agreement, divorce decree, or property settlement agreement;

(ii) an order of a court of record; or

(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal

guardian, or responsible relative for the purpose of collecting the debt.

(15) The term ''entity'' includes person, estate, trust, governmental unit, and United States trustee.

(16) The term ''equity security'' means—

(A) share in a corporation, whether or not transferable or denominated ''stock'', or similar security;

(B) interest of a limited partner in a limited partnership; or

(C) warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B) of this paragraph.

(17) The term ''equity security holder'' means holder of an equity security of the debtor.

(18) The term ''family farmer'' means—

(A) individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed $3,237,000 and not less than 50 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse unless such debt arises out of a farming operation), on the date the case is filed, arise out of a farming operation owned or operated by such individual or such individual and spouse, and such individual or such individual and spouse receive from such farming operation more than 50 percent of such individual's or such individual and spouse's gross income for—

(i) the taxable year preceding; or

(ii) each of the 2d and 3d taxable years preceding;

the taxable year in which the case concerning such individual or such individual and spouse was filed; or

(B) corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family, and such family or such relatives conduct the farming operation, and

(i) more than 80 percent of the value of its assets consists of assets related to the farming operation;

(ii) its aggregate debts do not exceed $3,237,000 and not less than 50 percent of its aggregate noncontingent, liquidated debts (excluding a debt for one dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a farming operation), on the date the case is filed, arise out of the farming operation owned or operated by such corporation or such partnership; and

(iii) if such corporation issues stock, such stock is not publicly traded.

(19) The term ''family farmer with regular annual income'' means family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12 of this title.

(19A) The term ''family fisherman'' means—

(A) an individual or individual and spouse engaged in a commercial fishing operation—

(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

(B) a corporation or partnership—

(i) in which more than 50 percent of the outstanding stock or equity is held by—

(I) 1 family that conducts the commercial fishing operation; or

(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

(III) if such corporation issues stock, such stock is not publicly traded.

(19B) The term ''family fisherman with regular annual income'' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title.

(20) The term ''farmer'' means (except when such term appears in the term ''family farmer'') person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person.

(21) The term ''farming operation'' includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state.

(21A) The term ''farmout agreement'' means a written agreement in which—

(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property.

(21B) The term ''Federal depository institutions regulatory agency'' means—

(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of such Act);

(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation.

(22) The term ''financial institution'' means—

(A) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer (whether or not a ''customer'', as defined in section 741) in connection with a securities contract (as defined in section 741) such customer; or

(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940.

(22A) The term ''financial participant'' means—

(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding (aggregated across counterparties) at such time or on any day during the 15-month period preceding the date of the filing of the petition, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) at such time or on any day during the 15-month period preceding the date of the filing of the petition; or

(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991).

(23) The term ''foreign proceeding'' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

(24) The term ''foreign representative'' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding.

(25) The term ''forward contract'' means—

(A) a contract (other than a commodity contract, as defined in section 761) for the purchase, sale, or transfer of a commodity, as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than two days after the date the contract is entered into, including, but not limited to, a repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a ''repurchase agreement'', as defined in this section)[1] consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

[1] So in original. Probably should be followed by a comma.

(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562.

(26) The term ''forward contract merchant'' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade.

(27) The term ''governmental unit'' means United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a case under this title), a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.

(27A) The term ''health care business''—

(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

(i) the diagnosis or treatment of injury, deformity, or disease; and

(ii) surgical, drug treatment, psychiatric, or obstetric care; and

(B) includes—

(i) any—

(I) general or specialized hospital;

(II) ancillary ambulatory, emergency, or surgical treatment facility;

(III) hospice;

(IV) home health agency; and

(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

(ii) any long-term care facility, including any—

(I) skilled nursing facility;

(II) intermediate care facility;

(III) assisted living facility;

(IV) home for the aged;

(V) domiciliary care facility; and

(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living.

(27B) The term ''incidental property'' means, with respect to a debtor's principal residence—

(A) property commonly conveyed with a principal residence in the area where the real property is located;

(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

(C) all replacements or additions.

(28) The term ''indenture'' means mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor.

(29) The term ''indenture trustee'' means trustee under an indenture.

(30) The term ''individual with regular income'' means individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13 of this title, other than a stockbroker or a commodity broker.

(31) The term ''insider'' includes—

(A) if the debtor is an individual—

(i) relative of the debtor or of a general partner of the debtor;

(ii) partnership in which the debtor is a general partner;

(iii) general partner of the debtor; or

(iv) corporation of which the debtor is a director, officer, or person in control;

(B) if the debtor is a corporation—

(i) director of the debtor;

(ii) officer of the debtor;

(iii) person in control of the debtor;

(iv) partnership in which the debtor is a general partner;

(v) general partner of the debtor; or

(vi) relative of a general partner, director, officer, or person in control of the debtor;

(C) if the debtor is a partnership—

(i) general partner in the debtor;

(ii) relative of a general partner in, general partner of, or person in control of the debtor;

(iii) partnership in which the debtor is a general partner;

(iv) general partner of the debtor; or

(v) person in control of the debtor;

(D) if the debtor is a municipality, elected official of the debtor or relative of an elected official of the debtor;

(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) managing agent of the debtor.

(32) The term ''insolvent'' means—

(A) with reference to an entity other than a partnership and a municipality, financial condition such that the sum of such entity's debts is greater than all of such entity's property, at a fair valuation, exclusive of—

(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and

(ii) property that may be exempted from property of the estate under section 522 of this title;

(B) with reference to a partnership, financial condition such that the sum of such

partnership's debts is greater than the aggregate of, at a fair valuation—

(i) all of such partnership's property, exclusive of property of the kind specified in subparagraph (A)(i) of this paragraph; and

(ii) the sum of the excess of the value of each general partner's nonpartnership property, exclusive of property of the kind specified in subparagraph (A) of this paragraph, over such partner's nonpartnership debts; and

(C) with reference to a municipality, financial condition such that the municipality is—

(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or

(ii) unable to pay its debts as they become due.

(33) The term ''institution-affiliated party''—

(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act; and

(B) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act.

(34) The term ''insured credit union'' has the meaning given it in section 101(7) of the Federal Credit Union Act.

(35) The term ''insured depository institution''—

(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act; and

(B) includes an insured credit union (except in the case of paragraphs (21B) and (33)(A) of this subsection).

(35A) The term ''intellectual property'' means—

(A) trade secret;

(B) invention, process, design, or plant protected under title 35;

(C) patent application;

(D) plant variety;

(E) work of authorship protected under title 17; or

(F) mask work protected under chapter 9 of title 17;

to the extent protected by applicable nonbankruptcy law.

(36) The term ''judicial lien'' means lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

(37) The term ''lien'' means charge against or interest in property to secure payment of a debt or performance of an obligation.

(38) The term ''margin payment'' means, for purposes of the forward contract provisions of this title, payment or deposit of cash, a security or other property, that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including mark-to-market payments, or variation payments.

(38A) The term ''master netting agreement''—

(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a).

(38B) The term ''master netting agreement participant'' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor.

(39) The term ''mask work'' has the meaning given it in section 901(a)(2) of title 17.

(39A) The term ''median family income'' means for any year—

(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year.

(40) The term ''municipality'' means political subdivision or public agency or instrumentality of a State.

(40A) The term ''patient'' means any individual who obtains or receives services from a health care business.

(40B) The term ''patient records'' means any record relating to a patient, including a written document or a record recorded in a magnetic, optical, or other form of electronic medium.

(41) The term ''person'' includes individual, partnership, and corporation, but does not include governmental unit, except that a governmental unit that—

(A) acquires an asset from a person—

(i) as a result of the operation of a loan guarantee agreement; or

(ii) as receiver or liquidating agent of a person;

(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

(C) is the legal or beneficial owner of an asset of—

(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986;

shall be considered, for purposes of section 1102 of this title, to be a person with respect to such asset or such benefit.

(41A) The term ''personally identifiable information'' means—

(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

(ii) the geographical address of a physical place of residence of such individual;

(iii) an electronic address (including an e-mail address) of such individual;

(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

(v) a social security account number issued to such individual; or

(vi) the account number of a credit card issued to such individual; or

(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically.

(42) The term ''petition'' means petition filed under section 301, 302, 303 and[2] 1504 of this title, as the case may be, commencing a case under this title.

(42A) The term ''production payment'' means a term overriding royalty satisfiable in cash or in kind—

(A) contingent on the production of a liquid or gaseous hydrocarbon from particular real property; and

(B) from a specified volume, or a specified value, from the liquid or gaseous hydrocarbon produced from such property, and determined without regard to production costs.

(43) The term ''purchaser'' means transferee of a voluntary transfer, and includes immediate or mediate transferee of such a transferee.

(44) The term ''railroad'' means common carrier by railroad engaged in the transportation of individuals or property or owner of trackage facilities leased by such a common carrier.

(45) The term ''relative'' means individual related by affinity or consanguinity within the third degree as determined by the common law, or individual in a step or adoptive relationship within such third degree.

(46) The term ''repo participant'' means an entity that, at any time before the filing of the petition, has an outstanding repurchase agreement with the debtor.

(47) The term ''repurchase agreement'' (which definition also applies to a reverse repurchase agreement)—

(A) means—

(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

(B) does not include a repurchase obligation under a participation in a commercial mortgage loan.

(48) The term ''securities clearing agency'' means person that is registered as a clearing

[2] So in original. Probably should be ''or''. See 2010 Amendment note below.

agency under section 17A of the Securities Exchange Act of 1934, or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission, or whose business is confined to the performance of functions of a clearing agency with respect to exempted securities, as defined in section 3(a)(12) of such Act for the purposes of such section 17A.

(48A) The term ''securities self regulatory organization'' means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934.

(49) The term ''security''—

(A) includes—

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) debenture;

(vi) collateral trust certificate;

(vii) pre-organization certificate or subscription;

(viii) transferable share;

(ix) voting-trust certificate;

(x) certificate of deposit;

(xi) certificate of deposit for security;

(xii) investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is required to be the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933, or is exempt under section 3(b) of such Act from the requirement to file such a statement;

(xiii) interest of a limited partner in a limited partnership;

(xiv) other claim or interest commonly known as ''security''; and

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but

(B) does not include—

(i) currency, check, draft, bill of exchange, or bank letter of credit;

(ii) leverage transaction, as defined in section 761 of this title;

(iii) commodity futures contract or forward contract;

(iv) option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;

(v) option to purchase or sell a commodity;

(vi) contract or certificate of a kind specified in subparagraph (A)(xii) of this paragraph that is not required to be the subject of a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 from the requirement to file such a statement; or

(vii) debt or evidence of indebtedness for goods sold and delivered or services rendered.

(50) The term ''security agreement'' means agreement that creates or provides for a security interest.

(51) The term ''security interest'' means lien created by an agreement.

(51A) The term ''settlement payment'' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade.

(51B) The term ''single asset real estate'' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor who is not a family farmer and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto.

(51C) The term ''small business case'' means a case filed under chapter 11 of this title in which the debtor is a small business debtor.

(51D) The term ''small business debtor''—

(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders).

(52) The term ''State'' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title.

(53) The term ''statutory lien'' means lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

(53A) The term ''stockbroker'' means person—

(A) with respect to which there is a customer, as defined in section 741 of this title; and

(B) that is engaged in the business of effecting transactions in securities—

(i) for the account of others; or

(ii) with members of the general public, from or for such person's own account.

(53B) The term ''swap agreement''—

(A) means—

(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement;

(III) a currency swap, option, future, or forward agreement;

(IV) an equity index or equity swap, option, future, or forward agreement;

(V) a debt index or debt swap, option, future, or forward agreement;

(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

(VII) a commodity index or a commodity swap, option, future, or forward agreement;

(VIII) a weather swap, option, future, or forward agreement;

(IX) an emissions swap, option, future, or forward agreement; or

(X) an inflation swap, option, future, or forward agreement;

(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference therein); and

(II) is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

(iii) any combination of agreements or transactions referred to in this subparagraph;

(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act.

(53C) The term ''swap participant'' means an entity that, at any time before the filing of the petition, has an outstanding swap agreement with the debtor.

(56A)[3] The term ''term overriding royalty'' means an interest in liquid or gaseous hydrocarbons in place or to be produced from particular real property that entitles the owner thereof to a share of production, or the value thereof, for a term limited by time, quantity, or value realized.

(53D) The term ''timeshare plan'' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years. A ''timeshare interest'' is that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.

(54) The term ''transfer'' means—

(A) the creation of a lien;

[3] So in original.

(B) the retention of title as a security interest;

(C) the foreclosure of a debtor's equity of redemption; or

(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

(i) property; or

(ii) an interest in property.

(54A) The term ''uninsured State member bank'' means a State member bank (as defined in section 3 of the Federal Deposit Insurance Act) the deposits of which are not insured by the Federal Deposit Insurance Corporation.

(55) The term ''United States'', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2549; Pub. L. 97–222, §1, July 27, 1982, 96 Stat. 235; Pub. L. 98–353, title III, §§391, 401, 421, July 10, 1984, 98 Stat. 364, 366, 367; Pub. L. 99–554, title II, §§201, 251, 283(a), Oct. 27, 1986, 100 Stat. 3097, 3104, 3116; Pub. L. 100–506, §1(a), Oct. 18, 1988, 102 Stat. 2538; Pub. L. 100–597, §1, Nov. 3, 1988, 102 Stat. 3028; Pub. L. 101–311, title I, §101, title II, §201, June 25, 1990, 104 Stat. 267, 268; Pub. L. 101–647, title XXV, §2522(e), Nov. 29, 1990, 104 Stat. 4867; Pub. L. 102–486, title XXX, §3017(a), Oct. 24, 1992, 106 Stat. 3130; Pub. L. 103–394, title I, §106, title II, §§208(a), 215, 217(a), 218(a), title III, §304(a), title V, §501(a), (b)(1), (d)(1), Oct. 22, 1994, 108 Stat. 4111, 4124, 4126–4128, 4132, 4141–4143; Pub. L. 106–554, §1(a)(5) [title I, §112(c)(3), (4)], Dec. 21, 2000, 114 Stat. 2763, 2763A–393, 2763A–394; Pub. L. 109–8, title I, §102(b), (k), title II, §§211, 226(a), 231(b), title III, §306(c), title IV, §§401(a), 414, 432(a), title VIII, §802(b), title IX, §907(a)(1), (b), (c), title X, §§1004, 1005, 1007(a), title XI, §1101(a), (b), title XII, §1201, Apr. 20, 2005, 119 Stat. 32, 35, 50, 66, 73, 80, 104, 107, 110, 145, 170, 175, 186, 187, 189, 192; Pub. L. 109–390, §5(a)(1), Dec. 12, 2006, 120 Stat. 2695; Pub. L. 111–327, §2(a)(1), Dec. 22, 2010, 124 Stat. 3557.)

ADJUSTMENT OF DOLLAR AMOUNTS

For adjustment of certain dollar amounts specified in this section, that is not reflected in text, see Adjustment of Dollar Amounts note below.

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 101(2) defines ''affiliate.'' The House amendment contains a provision that is a compromise between the definition in the House-passed version of H.R. 8200 and the Senate amendment in the nature of a substitute to H.R. 8200. Subparagraphs (A) and (B) are derived from the Senate amendment and subparagraph (D) is taken from the House bill, while subparagraph (C) represents a compromise, taking the House position with respect to a person whose business is operated under a lease or an operating agreement by the debtor and with respect to a person substantially all of whose property is operated under an operating agreement by the debtor and with respect to a person substantially all of whose property is operated under an operating agreement by the debtor and the Senate position on leased property. Thus, the definition of ''affiliate'' excludes persons substantially all of whose property is operated under a lease agreement by a debtor, such as a small company which owns equipment all of which is leased to a larger nonrelated company.

Section 101(4)(B) represents a modification of the House-passed bill to include the definition of ''claim'' a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment. This is intended to cause the liquidation or estimation of contingent rights of payment for which there may be an alternative equitable remedy with the result that the equitable remedy will be susceptible to being discharged in bankruptcy. For example, in some States, a judgment for specific performance may be satisfied by an alternative right to payment, in the event performance is refused; in that event, the creditor entitled to specific performance would have a ''claim'' for purposes of a proceeding under title 11.

On the other hand, rights to an equitable remedy for a breach of performance with respect to which such breach does not give rise to a right to payment are not ''claims'' and would therefore not be susceptible to discharge in bankruptcy.

In a case under chapter 9 to title 11, ''claim'' does not include a right to payment under an industrial development bond issued by a municipality as a matter of convenience for a third party.

Municipalities are authorized, under section 103(c) of the Internal Revenue Code of 1954, as amended [title 26], to issue tax-exempt industrial development revenue bonds to provide for the financing of certain projects for privately owned companies. The bonds are sold on the basis of the credit of the company on whose behalf they are issued, and the principal, interest, and premium, if any, are payable solely from payments made by the company to the trustee under the bond indenture and do not constitute claims on the tax revenues or other funds of the issuing municipalities. The municipality merely acts as the vehicle to enable the bonds to be issued on a tax-exempt basis. Claims that arise by virtue of these bonds are not among the claims defined by this paragraph and amounts owed by private companies to the holders of industrial development revenue bonds are not to be included among the assets of the municipality that would be affected by the plan.

Section 101(6) defines ''community claim'' as provided by the Senate amendment in order to indicate that a community claim exists whether or not there is community property in the estate as of the commencement of the case.

Section 101(7) of the House amendment contains a definition of consumer debt identical to the definition in the House bill and Senate amendment. A consumer debt does not include a debt to any extent the debt is secured by real property.

Section 101(9) of the Senate amendment contained a definition of ''court.'' The House amendment deletes the provision as unnecessary in light of the pervasive jurisdiction of a bankruptcy court under all chapters of title 11 as indicated in title II of the House amendment to H.R. 8200.

Section 101(11) defines ''debt'' to mean liability on a claim, as was contained in the House-passed version of H.R. 8200. The Senate amendment contained language indicating that ''debt'' does not include a policy loan made by a life insurance company to the debtor. That language is deleted in the House amendment as unnecessary since a life insurance company clearly has no right to have a policy loan repaid by the debtor, although such company does have a right of offset with respect to such policy loan. Clearly, then, a ''debt'' does not include a policy loan made by a life insurance company. Inclusion of the language contained in the Senate amendment would have required elaboration of other legal relationships not arising by a liability on a claim. Further the language would have required clarification that interest on a policy loan made by a life insurance company is a debt, and that the insurance company does have right to payment to that interest.

Section 101(14) adopts the definition of ''entity'' contained in the Senate-passed version of H.R. 8200. Since the Senate amendment to H.R. 8200 deleted the U.S.

trustee, a corresponding definitional change is made in chapter 15 of the House amendment for U.S. trustees under the pilot program. Adoption by the House amendment of a pilot program for U.S. trustees under chapter 15 requires insertion of ''United States trustee'' in many sections. Several provisions in chapter 15 of the House amendment that relate to the U.S. trustee were not contained in the Senate amendment in the nature of a substitute.

Section 101(17) defines ''farmer,'' as in the Senate amendment with an income limitation percentage of 80 percent instead of 75 percent.

Section 101(18) contains a new definition of ''farming operation'' derived from present law and the definition of ''farmer'' in the Senate amendment. This definition gives a broad construction to the term ''farming operation''.

Section 101(20) contains a definition of ''foreign representative''. It clarifies the House bill and Senate amendment by indicating that a foreign representative must be duly selected in a foreign proceeding.

Section 101(35) defines ''security'' as contained in the Senate amendment. H.R. 8200 as adopted by the House excluded certain commercial notes from the definition of ''security'', and that exclusion is deleted.

Section 101(40) defines ''transfer'' as in the Senate amendment. The definition contained in H.R. 8200 as passed by the House included ''setoff'' in the definition of ''transfer''. Inclusion of ''setoff'' is deleted. The effect is that a ''setoff'' is not subject to being set aside as a preferential ''transfer'' but will be subject to special rules.

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Section 101 of title 11 contains 40 definitions:

Paragraph (1) defines ''accountant'' as an accountant authorized under applicable law to practice accounting. The term includes a professional accounting association, corporation, or partnership if applicable law authorizes such a unit to practice accounting.

Paragraph (2) defines ''affiliate.'' An affiliate is an entity with a close relationship to the debtor. It includes a 20 percent parent or subsidiary of the debtor, whether a corporate, partnership, individual, or estate parent.

The use of ''directly or indirectly'' in subparagraphs (A) and (B) is intended to cover situations in which there is an opportunity to control, and where the existence of that opportunity operates as indirect control.

''Affiliate'' is defined primarily for use in the definition of insider, infra, and for use in the chapter 11 reorganization cases. The definition of ''affiliate'' does not include an entity acting in a fiduciary or agency capacity if the entity does not have the sole discretionary power to vote 20 percent of the voting securities but hold them solely as security and have not exercised the power to vote. This restriction applies to a corporate affiliate under subparagraph (B) of paragraph (2).

Subsections (C) and (D) of paragraph (2) define affiliate also as those persons and entities whose business or substantially all of whose property is operated under a lease or operating agreement by a debtor and whose business or property is more than 50 percent under the control of the debtor.

The definition of ''attorney'' in paragraph (3) is similar to the definition of accountant.

Paragraph (4) defines ''claim.'' The effect of the definition is a significant departure from present law. Under present law, ''claim'' is not defined in straight bankruptcy. Instead it is simply used, along with the concept of provability in section 63 of the Bankruptcy Act [section 103 of former title 11], to limit the kinds of obligations that are payable in a bankruptcy case. The term is defined in the debtor rehabilitation chapters of present law far more broadly. The definition in paragraph (4) adopts an even broader definition of claim than is found in the present debtor rehabilitation chapters. The definition is any right to payment, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured. The definition also includes as a claim an equitable right to performance that does not give rise to a right to payment. By this broadest possible definition and by the use of the term throughout the title 11, especially in subchapter I of chapter 5, the bill contemplates that all legal obligations of the debtor, no matter how remote or contingent, will be able to be dealt with in the bankruptcy case. It permits the broadest possible relief in the bankruptcy court.

Paragraph (5) defines ''commodity broker'' by reference to various terms used and defined in subchapter IV of chapter 7, Commodity Broker Liquidation. The terms are described in connection with section 761, infra.

Paragraph (6) defines ''community claim'' for those eight States that have community property laws. The definition is keyed to the liability of the debtor's property for a claim against either the debtor or the debtor's spouse. If the debtor's property is liable for a claim against either, that claim is a community claim.

Paragraph (7) defines ''consumer debt''. The definition is adapted from the definition used in various consumer protection laws. It encompasses only a debt incurred by an individual primarily for a personal, family, or household purpose.

The definition of ''corporation'' in paragraph (8) is similar to the definition in current law, section 1(8) [section 1(8) of former title 11]. The term encompasses any association having the power or privilege that a private corporation, but not an individual or partnership, has; partnership associations organized under a law that makes only the capital subscribed responsible for the debts of the partnership; joint-stock company; unincorporated company or association; and business trust. ''Unincorporated association'' is intended specifically to include a labor union, as well as other bodies that come under that phrase as used under current law. The exclusion of limited partnerships is explicit, and not left to the case law.

Paragraph (9) defines ''court'' as the bankruptcy judge in the district in which the case is pending except in municipal adjustment and railroad reorganization cases, where ''court'' means the Federal district judge.

Paragraph (10) [enacted as (9)] defines ''creditor'' to include holders of prepetition claims against the debtor. However, it also encompasses certain holders of claims that are deemed to arise before the date of the filing of the petition, such as those injured by the rejection of an executory contract or unexpired lease, certain investment tax credit recapture claim holders, ''involuntary gap'' creditors, and certain holders of the right of setoff. The term also includes the holder of a prepetition community claim. A guarantor of or surety for a claim against the debtor is also a creditor, because he holds a contingent claim against the debtor that becomes fixed when he pays the creditor whose claim he has guaranteed or insured.

Paragraph (11) [enacted as (10)] defines ''custodian.'' There is no similar definition in current law. It is defined to facilitate drafting, and means a prepetition liquidator of the debtor's property, such as an assignee for the benefit of creditors, a receiver of the debtor's property, or administrator of the debtor's property. The definition of custodian to include a receiver or trustee is descriptive, and not meant to be limited to court officers with those titles. The definition is intended to include other officers of the court if their functions are substantially similar to those of a receiver or trustee.

''Debt'' is defined in paragraph (12) [enacted as (11)] as a liability on a claim. The terms ''debt'' and ''claim'' are coextensive: a creditor has a ''claim'' against the debtor; the debtor owes a ''debt'' to the creditor. This definition of ''debt'' and the definition of ''claim'' on which it is based, proposed 11 U.S.C. 101(4), does not include a transaction such as a policy loan on an insurance policy. Under that kind of transaction, the debtor is not liable to the insurance company for repayment; the amount owed is merely available to the company for setoff against any benefits that become payable

under the policy. As such, the loan is not a claim (it is not a right to payment) that the company can assert against the estate; nor is the debtor's obligation a debt (a liability on a claim) that will be discharged under proposed 11 U.S.C. 523 or 524.

Paragraph (13) [enacted as (12)] defines ''debtor.'' Debtor means person or municipality concerning which a case under title II has been commenced. This is a change in terminology from present law, which identifies the person by or against whom a petition is filed in a straight bankruptcy liquidation case as the ''bankrupt'', and a person or municipality that is proceeding under a debtor rehabilitation chapter (chapters VIII through XIII of the Bankruptcy Act) [chapters 8 through 13 of former title 11] as a ''debtor.'' The term ''debtor'' is used for both kinds of cases in this bill, for ease of reference in chapters 1, 3, and 5 (which apply to straight bankruptcy and reorganization cases).

Paragraph (14) [enacted as (13)] defines ''disinterested person.'' The definition is adapted from section 158 of chapter X of current law [section 558 of former title 11], though it is expanded and modified in some respects. A person is a disinterested person if the person is not a creditor, equity security holder, or insider; is not and was not an investment banker of the debtor for any outstanding security of the debtor (the change from underwriter in current law to investment banker is to make the term more descriptive and to avoid conflict with the definition of underwriter in section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)); has not been an investment banker for a security of the debtor within 3 years before the date of the filing of the petition (the change from five years to three years here conforms the definition with the statute of limitations in the Securities Act of 1933) [15 U.S.C. 77m], or an attorney for such an investment banker; is not an insider of the debtor or of such an investment banker; and does not have an interest materially adverse to the estate.

''Entity'' is defined, for convenience, in paragraph (15) [enacted as (14)], to include person, estate, trust, and governmental unit. It is the most inclusive of the various defined terms relating to bodies or units.

Paragraph (16) defines ''equity security.'' The term includes a share or stock in a corporation, a limited partner's interest in a limited partnership, and a warrant or right to subscribe to an equity security. The term does not include a security, such as a convertible debenture, that is convertible into equity security, but has not been converted.

Paragraph (17) [enacted as (15)] defines ''equity security holder'' for convenience as the holder of an equity securing of the debtor.

Paragraph (18) [enacted as (17)] defines ''farmer''. It encompasses only those persons for whom farming operations contribute 75 percent or more of their total income.

Paragraphs (19) and (20) define ''foreign proceeding'' and ''foreign representative''. A foreign proceeding is a proceeding in another country in which the debtor has some substantial connection for the purpose of liquidating the estate of the debtor or the purpose of financial rehabilitation of the debtor. A foreign representative is the representative of the estate in a foreign proceeding, such as a trustee or administrator.

Paragraph (21) defines ''governmental unit'' in the broadest sense. The definition encompasses the United States, a State, Commonwealth, District, Territory, municipality, or foreign state, and a department, agency, or instrumentality of any of those entities. ''Department, agency, or instrumentality'' does not include an entity that owes its existence to State action, such as the granting of a charter or a license but that has no other connection with a State or local government or the Federal Government. The relationship must be an active one in which the department, agency, or instrumentality is actually carrying out some governmental function.

Paragraph (22) defines ''indenture.'' It is similar to the definition of indenture in the Trust Indenture Act of 1939 [15 U.S.C. 77ccc(7)]. An indenture is the instrument under which securities, either debt or equity, of the debtor are outstanding.

Paragraph (23) defines ''indenture trustee'' as the trustee under an indenture.

Paragraph (24) defines ''individual with regular income.'' The effect of this definition, and of its use in section 109(e), is to expand substantially the kinds of individuals that are eligible for relief under chapter 13, Adjustment of Debts of an Individual with Regular Income. Chapter XIII [chapter 13 of former title 11] is now available only for wage earners. The definition encompasses all individuals with incomes that are sufficiently stable and regular to enable them to make payments under a chapter 13 plan. Thus, individuals on welfare, social security, fixed pension incomes, or who live on investment incomes, will be able to work out repayment plans with their creditors rather than being forced into straight bankruptcy. Also, self-employed individuals will be eligible to use chapter 13 if they have regular incomes.

However, the definition excludes certain stockbrokers and commodity brokers, in order to prohibit them from proceeding under chapter 13 and avoiding the customer protection provisions of chapter 7.

''Insider'', defined in paragraph (25), is a new term. An insider is one who has a sufficiently close relationship with the debtor that his conduct is made subject to closer scrutiny than those dealing at arms length with the debtor. If the debtor is an individual, then a relative of the debtor, a partnership in which the debtor is a general partner, a general partner of the debtor, and a corporation controlled by the debtor are all insiders. If the debtor is a corporation, then a controlling person, a relative of a controlling person, a partnership in which the debtor is a general partner, and a general partner of the debtor are all insiders. If the debtor is a partnership, then a general partner of or in the debtor, a relative of a general partner in the debtor, and a person in control are all insiders. If the debtor is a municipality, then an elected official of the debtor is an insider. In addition, affiliates of the debtor and managing agents are insiders.

The definition of ''insolvent'' in paragraph (26) is adopted from section 1(19) of current law [section 1(19) of former title 11]. An entity is insolvent if its debts are greater than its assets, at a fair valuation, exclusive of property exempted or fraudulently transferred. It is the traditional bankruptcy balance sheet test of insolvency. For a partnership, the definition is modified to account for the liability of a general partner for the partnership's debts. The difference in this definition from that in current law is in the exclusion of exempt property for all purposes in the definition of insolvent.

Paragraph (27) defines ''judicial lien.'' It is one of three kinds of liens defined in this section. A judicial lien is a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

Paragraph (28) defines ''lien.'' The definition is new and is very broad. A lien is defined as a charge against or interest in property to secure payment of a debt or performance of an obligation. It includes inchoate liens. In general, the concept of lien is divided into three kinds of liens: judicial liens, security interests, and statutory liens. Those three categories are mutually exclusive and are exhaustive except for certain common law liens.

Paragraph (29) defines ''municipality.'' The definition is adapted from the terms used in the chapter IX (municipal bankruptcy) [chapter 9 of former title 11] amendment to the Bankruptcy Act enacted in 1976 (Pub. L. 94–260). That amendment spoke in terms of ''political subdivision or public agency or instrumentality of a State''. Bankruptcy Act Sec. 84 [section 404 of former title 11]. The term municipality is defined by those three terms for convenience. It does not include the District of Columbia or any territories of the United States.

''Person'' is defined in paragraph (30). The definition is a change in wording, but not in substance, from the definition in section 1(23) of the Bankruptcy Act [sec-

tion 1(23) of former title 11]. The definition is also similar to the one contained in 1 U.S.C. sec. 1, but is repeated here for convenience and ease of reference. Person includes individual partnership, and corporation. The exclusion of governmental units is made explicit in order to avoid any confusion that may arise if, for example, a municipality is incorporated and thus is legally a corporation as well as governmental unit. The definition does not include an estate or a trust, which are included only in the definition of ''entity'' in proposed 11 U.S.C. 101(14).

''Petition'' is defined for convenience in paragraph (31). Petition is a petition under section 301, 302, 303, or 304 of the bankruptcy code—that is, a petition that commences a case under title 11.

Paragraph (32) defines purchaser as a transferee of a voluntary transfer, such as a sale or gift, and includes an immediate or mediate transferee of a purchaser.

The definition of ''railroad'' in paragraph (33) is derived from section 77 of the Bankruptcy Act [section 205 of former title 11]. A railroad is a common carrier by railroad engaged in the transportation of individuals or property, or an owner of trackage facilities leased by such a common carrier. The effect of the definition and the use of the term in section 109(d) is to eliminate the limitation now found in section 77 of the Bankruptcy Act that only railroads engaged in interstate commerce may proceed under the railroad reorganization provisions. The limitation may have been inserted because of a doubt that the commerce power could not reach intrastate railroads. Be that as it may, this bill is enacted under the bankruptcy power.

Paragraph (34) defines ''relative'' as an individual related by affinity or consanguinity within the third degree as determined by the common law, and includes individuals in a step or adoptive relationship. The definition is similar to current law, but adds the latter phrase. This definition should be applied as of the time when the transaction that it concerns took place. Thus, a former spouse is not a relative, but if, for example, for purposes of the preference section, proposed 11 U.S.C. 547(b)(4)(B), the transferee was a spouse of the debtor at the time of the transfer sought to be avoided, then the transferee would be relative and subject to the insider rules, even if the transferee was no longer married to the debtor at the time of the commencement of the case or at the time of the commencement of the preference recovery proceeding.

Paragraph (35) defines ''security.'' The definition is new and is modeled on the most recent draft of the American Law Institute's proposed securities code, with some exceptions. The interest of a limited partner in a limited partnership is included in order to make sure that everything that is defined as an equity security is also a ''security.'' The definition, as with the definition of ''entity'', ''insider'', and ''person'', is open-ended because the term is not susceptible of precise specification. Thus the courts will be able to use the characterization provided in this definition to treat with new kinds of documents on a flexible basis.

Paragraphs (36) and (37) defined ''security agreement'' and ''security interest.'' A security interest is one of the kinds of liens. It is a lien created by an agreement. Security agreement is defined as the agreement creating the security interest. Though these terms are similar to the same terms in the Uniform Commercial Code, article IX, they are broader. For example, the U.C.C. does not cover real property mortgages. Under this definition, such a mortgage is included, as are all other liens created by agreement, even though not covered by the U.C.C. All U.C.C. security interests and security agreements are, however, security interests and security agreements under this definition. Whether a consignment or a lease constitutes a security interest under the bankruptcy code will depend on whether it constitutes a security interest under applicable State or local law.

Paragraph (38) defines another kind of lien, ''statutory lien.'' The definition, derived from current law, states that a statutory lien is a lien arising solely by force of statute on specified circumstances or conditions and includes a lien of distress for rent (whether statutory, common law, or otherwise). The definition excludes judicial liens and security interests, whether or not they are provided for or are dependent on a statute, and whether or not they are made fully effective by statute. A statutory lien is only one that arises automatically, and is not based on an agreement to give a lien or on judicial action. Mechanics', materialmen's, and warehousemen's liens are examples. Tax liens are also included in the definition of statutory lien.

''Stockbroker'' is defined in paragraph (39) as a person engaged in the business of effecting transactions in securities for the account of others or with members of the general public from or for such person's own account, if the person has a customer, as defined. Thus, the definition, derived from a combination of the definitions of ''broker'' and ''dealer'' in the Securities Exchange Act of 1934 [15 U.S.C. 78c], encompasses both brokers and dealers. The definition is used in section 109 and in subchapter III of chapter 7, Stockholder Liquidation. The term does not encompass an employee who acts for a principal that ''effects'' transaction or deals with the public, because such an employee will not have a ''customer''.

Paragraph (40) defines ''transfer.'' It is derived and adapted, with stylistic changes, from section 1(30) of the Bankruptcy Act [section 1(30) of former title 11]. A transfer is a disposition of an interest in property. The definition of transfer is as broad as possible. Many of the potentially limiting words in current law are deleted, and the language is simplified. Under this definition, any transfer of an interest in property is a transfer, including a transfer of possession, custody, or control even if there is no transfer of title, because possession, custody, and control are interests in property. A deposit in a bank account or similar account is a transfer.

REFERENCES IN TEXT

The Social Security Act, referred to in par. (10A)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Internal Revenue Code of 1986, referred to in pars. (12A)(B) and (41)(C), is classified generally to Title 26, Internal Revenue Code.

Section 3 of the Federal Deposit Insurance Act, referred to in pars. (12A)(D), (21B)(A), (33)(A), (35)(A), and (54A), is classified to section 1813 of Title 12, Banks and Banking.

Sections 101 and 206(r) of the Federal Credit Union Act, referred to in pars. (12A)(D), (33)(B), and (34), are classified to sections 1752 and 1786(r), respectively, of Title 12, Banks and Banking.

The Investment Company Act of 1940, referred to in par. (22)(B), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, which is classified generally to subchapter I (§80a–1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a–51 of Title 15 and Tables.

Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991, referred to in par. (22A)(B), is classified to section 4402 of Title 12, Banks and Banking.

The Securities Exchange Act of 1934, referred to in pars. (47)(A)(i), (48), (48A), and (53B)(B), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. Sections 3, 6, 15A, and 17A of the Act are classified to sections 78c, 78f, 78*o*–3 and 78q–1, respectively, of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Securities Act of 1933, referred to in par. (49)(A)(xii), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade.

Section 3(b) of the Act is classified to section 77c(b) of Title 15. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Gramm-Leach-Bliley Act, referred to in par. (53B)(B), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

The Legal Certainty for Bank Products Act of 2000, referred to in par. (53B)(B), is title IV of H.R. 5660, as enacted by Pub. L. 106–554, §1(a)(5), Dec. 21, 2000, 114 Stat. 2763, 2763A–457, which is classified to sections 27 to 27f of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 1 of Title 7 and Tables.

The Commodity Exchange Act, referred to in par. (53B)(B), 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.

AMENDMENTS

2010—Par. (13A)(A). Pub. L. 111–327, §2(a)(1)(A)(i), inserted ''if used as the principal residence by the debtor'' after ''a residential structure''.

Par. (13A)(B). Pub. L. 111–327, §2(a)(1)(A)(ii), inserted ''if used as the principal residence by the debtor'' before period at end.

Par. (35)(B). Pub. L. 111–327, §2(a)(1)(B), substituted ''paragraphs (21B) and (33)(A)'' for ''paragraphs (23) and (35)''.

Par. (40B). Pub. L. 111–327, §2(a)(1)(C), substituted ''record relating to a patient, including a written document or a'' for ''written document relating to a patient or a''.

Par. (42). Pub. L. 111–327, §2(a)(1)(D), which directed substitution of ''303 and 1504'' for ''303, and 304'', was executed by making the substitution for ''303, or 304'' to reflect the probable intent of Congress.

Par. (51B). Pub. L. 111–327, §2(a)(1)(E), inserted ''thereto'' before period at end.

Par. (51D)(A). Pub. L. 111–327, §2(a)(1)(F), inserted ''of the filing'' after ''as of the date''.

2006—Par. (22)(A). Pub. L. 109–390, §5(a)(1)(A), struck out ''(domestic or foreign)'' after ''an entity'' and inserted ''(whether or not a 'customer', as defined in section 741)'' after ''custodian for a customer''.

Par. (22A)(A). Pub. L. 109–390, §5(a)(1)(B), inserted ''(aggregated across counterparties)'' after ''principal amount outstanding'' and substituted ''at such time or on any day during the 15-month period preceding the date of the filing of the petition'' for ''on any day during the previous 15-month period'' in two places.

Par. (25)(A). Pub. L. 109–390, §5(a)(1)(C), inserted '', as defined in section 761'' after ''commodity contract'' and substituted ''repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in this section)'' for ''repurchase transaction, reverse repurchase transaction,''.

Par. (53B)(A)(i)(II). Pub. L. 109–390, §5(a)(1)(D)(i)(I), substituted '', precious metals, or other commodity'' for ''or precious metals''.

Par. (53B)(A)(i)(VIII). Pub. L. 109–390, §5(a)(1)(D)(i)(III), substituted ''option, future, or forward agreement'' for ''weather derivative, or weather option''.

Par. (53B)(A)(i)(IX), (X). Pub. L. 109–390, §5(a)(1)(D)(i)(II), (IV), added subcls. (IX) and (X).

Par. (53B)(A)(ii). Pub. L. 109–390, §5(a)(1)(D)(ii), inserted ''or other derivatives'' after ''dealings in the swap'' in subcl. (I) and substituted ''future, option, or spot transaction'' for ''future, or option'' in subcl. (II).

Par. (53B)(B). Pub. L. 109–390, §5(a)(1)(E), substituted ''the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act'' for ''the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000''.

2005—Pub. L. 109–8, §1201(1), substituted ''In this title the following definitions shall apply:'' for ''In this title—'' in introductory provisions.

Pars. (1), (2). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (3). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §226(a)(1), added par. (3).

Par. (4). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (4A). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §226(a)(2), added par. (4A).

Pars. (5) to (7). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pars. (7A), (7B). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §1007(a)(1), added pars. (7A) and (7B).

Pars. (8) to (10). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (10A). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §102(b), added par. (10A).

Pars. (11), (12). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (12A). Pub. L. 109–8, §1201(8), which directed the substitution of a period for a semicolon at end, could not be executed because par. (12A) ended in a period after amendment by Pub. L. 109–8, §226(a)(3). See below.

Pub. L. 109–8, §1201(2), inserted ''The term'' after par. designation.

Pub. L. 109–8, §§211(1), 226(a)(3), added par. (12A) and struck out former par. (12A) which read as follows: '' 'debt for child support' means a debt of a kind specified in section 523(a)(5) of this title for maintenance or support of a child of the debtor;''.

Par. (13). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (13A). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §306(c)(1), added par. (13A).

Par. (14). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §414, amended par. (14) generally. Prior to amendment, par. (14) consisted of subpars. (A) to (E) defining ''disinterested person''.

Par. (14A). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §211(2), added par. (14A).

Pars. (15) to (17). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (18). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (18)(A). Pub. L. 109–8, §1005, substituted ''for—

''(i) the taxable year preceding; or

''(ii) each of the 2d and 3d taxable years preceding; the taxable year'' for ''for the taxable year preceding the taxable year''.

Pub. L. 109–8, § 1004(1), substituted ''$3,237,000'' for ''$1,500,000'' and ''not less than 50 percent'' for ''not less than 80 percent''.

Par. (18)(B)(ii). Pub. L. 109–8, § 1004(2), substituted ''$3,237,000'' for ''$1,500,000'' and ''50 percent'' for ''80 percent''.

Par. (19). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pars. (19A), (19B). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 1007(a)(2), added pars. (19A) and (19B).

Pars. (20) to (21B). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (22). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 907(b)(1), added par. (22) and struck out former par. (22) which consisted of introductory provisions and subpars. (A) and (B) defining ''financial institution''.

Par. (22A). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 907(b)(2), added par. (22A).

Pars. (23), (24). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 802(b), added pars. (23) and (24) and struck out former pars. (23) and (24) which read as follows:

''(23) 'foreign proceeding' means proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization;

''(24) 'foreign representative' means duly selected trustee, administrator, or other representative of an estate in a foreign proceeding;''.

Par. (25). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 907(a)(1)(A), substituted ''means—'' for ''means'', designated subsequent provisions as subpar. (A), substituted '', or any other similar agreement'' for '', or any combination thereof or option thereon'', and added subpars. (B) to (E).

Par. (26). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 907(b)(3), added par. (26) and struck out former par. (26) which read as follows: '' 'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in a commodity, as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

Par. (27). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (27A). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 1101(a)(2), added par. (27A). Former par. (27A) redesignated (27B).

Pub. L. 109–8, § 306(c)(2), added par. (27A).

Par. (27B). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 1101(a)(1), redesignated par. (27A) as (27B).

Pars. (28) to (34). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (35). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (35)(B). Pub. L. 109–8, § 1201(3), substituted ''paragraphs (23) and (35)'' for ''paragraphs (21B) and (33)(A)''.

Par. (35A). Pub. L. 109–8, § 1201(2), (4), inserted ''The term'' after par. designation and substituted a period for ''; and'' at end.

Pars. (36), (37). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (38). Pub. L. 109–8, § 1201(2), (4), inserted ''The term'' after par. designation and substituted a period for ''; and'' at end.

Pars. (38A), (38B). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 907(c), added pars. (38A) and (38B).

Par. (39). Pub. L. 109–8, § 1201(2), inserted ''The term'' after par. designation.

Par. (39A). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 102(k), added par. (39A).

Par. (40). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pars. (40A), (40B). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 1101(b), added pars. (40A) and (40B).

Par. (41). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (41A). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 231(b), added par. (41A).

Pars. (42) to (45). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (46). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 907(a)(1)(B), substituted ''at any time before'' for ''on any day during the period beginning 90 days before the date of''.

Par. (47). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 907(a)(1)(C), amended par. (47) generally. Prior to amendment, par. (47) read as follows: '' 'repurchase agreement' (which definition also applies to a reverse repurchase agreement) means an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than one year after such transfers or on demand, against the transfer of funds;''.

Par. (48). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 907(a)(1)(D), inserted '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,'' after ''1934''.

Par. (48A). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, § 401(a), added par. (48A).

Pars. (49) to (51A). Pub. L. 109–8, § 1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (51B). Pub. L. 109–8, §1201(2), (5), (8), inserted ''The term'' after par. designation and ''who is not a family farmer'' after ''income of a debtor'' and substituted a period for ''thereto having aggregate noncontingent, liquidated secured debts in an amount no more than $4,000,000;''.

Pars. (51C), (51D). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §432(a), added pars. (51C) and (51D) and struck out former par. (51C) which read as follows: '' 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition do not exceed $2,000,000;''.

Pars. (52) to (53A). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (53B). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Pub. L. 109–8, §907(a)(1)(E), amended par. (53B) generally. Prior to amendment, par. (53B) consisted of introductory provisions and subpars. (A) to (C) defining ''swap agreement''.

Par. (53C). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (53D). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (54). Pub. L. 109–8, §1201(8), substituted a period for semicolon at end.

Pub. L. 109–8, §1201(6), added par. (54) and struck out former par. (54) which read as follows: ''The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption;''.

Pub. L. 109–8, §1201(2), inserted ''The term'' after par. designation.

Par. (54A). Pub. L. 109–8, §1201(8), which directed the substitution of a period for semicolon at end, could not be executed because par. (54A) ended in a period after amendment by Pub. L. 109–8, §1201(4). See below.

Pub. L. 109–8, §1201(4), (7), substituted ''The term'' for ''the term'', realigned left margin, and substituted a period for ''; and'' at end.

Par. (55). Pub. L. 109–8, §1201(2), (8), inserted ''The term'' after par. designation and substituted a period for semicolon at end.

Par. (56A). Pub. L. 109–8, §1201(8), which directed the substitution of a period for semicolon ''in each of paragraphs (40) through (55)'' at end, was executed to par. (56A), to reflect the probable intent of Congress, because par. (56A) follows par. (53C) in text.

Pub. L. 109–8, §1201(2), inserted ''The term'' after par. designation.

2000—Par. (22). Pub. L. 106–554, §1(a)(5) [title I, §112(c)(3)], amended par. (22) generally. Prior to amendment par. (22) read as follows: '' 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer;''.

Par. (54A). Pub. L. 106–554, §1(a)(5) [title I, §112(c)(4)], added par. (54A).

1994—Par. (3). Pub. L. 103–394, §501(a)(1), redesignated par. (3) as (21B) and inserted it after par. (21A).

Par. (6). Pub. L. 103–394, §501(b)(1)(A), substituted ''section 761'' for ''section 761(9)'' after ''customer, as defined in''.

Par. (12A). Pub. L. 103–394, §304(a), added par. (12A).

Par. (21B). Pub. L. 103–394, §501(a)(1), redesignated par. (3) as (21B).

Par. (22). Pub. L. 103–394, §501(b)(1)(B), substituted ''section 741'' for ''section 741(7)''.

Par. (33)(A). Pub. L. 103–394, §501(d)(1)(A)(i), struck out ''(12 U.S.C. 1813(u))'' after ''section 3(u) of the Federal Deposit Insurance Act''.

Par. (33)(B). Pub. L. 103–394, §501(d)(1)(A)(ii), struck out ''(12 U.S.C. 1786(r))'' after ''Act''.

Par. (34). Pub. L. 103–394, §501(d)(1)(B), struck out ''(12 U.S.C. 1752(7))'' after ''Act''.

Par. (35). Pub. L. 103–394, §501(b)(1)(C), (d)(1)(C), struck out ''(12 U.S.C. 1813(c)(2))'' after ''Act'' in subpar. (A) and substituted ''paragraphs (21B)'' for ''paragraphs (3)'' in subpar. (B).

Par. (35A). Pub. L. 103–394, §501(a)(4), redesignated par. (56) defining ''intellectual property'' as (35A) and inserted it after par. (35).

Par. (39). Pub. L. 103–394, §501(a)(5), redesignated par. (57) defining ''mask work'' as (39) and inserted it after par. (38). Former par. (39) redesignated (51A).

Par. (41). Pub. L. 103–394, §106, amended par. (41) generally. Prior to amendment, par. (41) read as follows: '' 'person' includes individual, partnership, and corporation, but does not include governmental unit, *Provided, however*, That any governmental unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver or liquidating agent of a person, will be considered a person for purposes of section 1102 of this title.''

Par. (42A). Pub. L. 103–394, §208(a)(1), added par. (42A).

Par. (48). Pub. L. 103–394, §501(d)(1)(D), struck out ''(15 U.S.C. 78q–1)'' after ''Act of 1934'' and ''(15 U.S.C. 78c(12))'' after ''such Act''.

Par. (49)(A)(xii). Pub. L. 103–394, §501(d)(1)(E)(i), struck out ''(15 U.S.C. 77a et seq.)'' after ''Act of 1933'' and ''(15 U.S.C. 77c(b))'' after ''such Act''.

Par. (49)(B). Pub. L. 103–394, §501(b)(1)(D), (d)(1)(E)(ii), substituted ''section 761'' for ''section 761(13)'' in cl. (ii) and struck out ''(15 U.S.C. 77c(b))'' after ''Act of 1933'' in cl. (vi).

Par. (51A). Pub. L. 103–394, §501(a)(2), redesignated par. (39) as (51A) and inserted it after par. (51).

Par. (51B). Pub. L. 103–394, §218(a), added par. (51B).

Par. (51C). Pub. L. 103–394, §217(a), added par. (51C).

Par. (53A). Pub. L. 103–394, §501(a)(3), (b)(1)(E), redesignated par. (54) defining ''stockbroker'' as (53A) and substituted ''section 741'' for ''section 741(2)'' in subpar. (A).

Par. (53B). Pub. L. 103–394, §501(a)(3), redesignated par. (55) defining ''swap agreement'' as (53B).

Par. (53C). Pub. L. 103–394, §501(a)(3), redesignated par. (56) defining ''swap participant'' as (53C).

Par. (53D). Pub. L. 103–394, §501(a)(3), (d)(1)(F), redesignated par. (57) defining ''timeshare plan'' as (53D) and substituted semicolon for period at end.

Par. (54). Pub. L. 103–394, §501(a)(3), redesignated par. (54) defining ''stockbroker'' as (53A).

Par. (55). Pub. L. 103–394, §501(a)(3), redesignated par. (55) defining ''swap agreement'' as (53B).

Pub. L. 103–394, §215, inserted ''spot foreign exchange agreement,'' after ''forward foreign exchange agreement,''.

Par. (56). Pub. L. 103–394, §501(a)(3), redesignated par. (56) defining ''swap participant'' as (53C).

Pub. L. 103–394, §501(a)(4), redesignated par. (56) defining ''intellectual property'' as (35A) and inserted it after par. (35).

Par. (56A). Pub. L. 103–394, §208(a)(2), added par. (56A) and inserted it after par. defining ''swap participant''.

Par. (57). Pub. L. 103–394, §501(a)(3), redesignated par. (57) defining ''timeshare plan'' as (53D).

Pub. L. 103–394, §501(a)(5), redesignated par. (57) defining ''mask work'' as (39) and inserted it after par. (38).

1992—Par. (21A). Pub. L. 102–486 added par. (21A).

1990—Par. (3). Pub. L. 101–647, §2522(e)(4), added par. (3). Former par. (3) redesignated (4).

Pars. (4) to (23). Pub. L. 101–647, §2522(e)(3), redesignated pars. (3) to (22) as (4) to (23), respectively. Former par. (23) redesignated (24).

Par. (24). Pub. L. 101–647, § 2522(e)(3), redesignated par. (23) as (24). Former par. (24) redesignated (25).

Pub. L. 101–311, § 201(1), inserted ''as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade,'' after ''transfer of commodity,'' and '', including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any combination thereof or option thereon'' after ''entered into''.

Par. (25). Pub. L. 101–647, § 2522(e)(3), redesignated par. (24) as (25). Former par. (25) redesignated (26).

Pub. L. 101–311, § 201(2), substituted ''a commodity, as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade'' for ''commodities''.

Pars. (26) to (32). Pub. L. 101–647, § 2522(e)(3), redesignated pars. (25) to (31) as (26) to (32), respectively. Former par. (32) redesignated (36).

Par. (33). Pub. L. 101–647, § 2522(e)(2), added par. (33). Former par. (33) redesignated (37).

Par. (34). Pub. L. 101–647, § 2522(e)(2), added par. (34). Former par. (34) redesignated (38).

Pub. L. 101–311, § 201(4), added par. (34). Former par. (34) redesignated (36).

Par. (35). Pub. L. 101–647, § 2522(e)(2), added par. (35). Former par. (35) redesignated (39).

Pub. L. 101–311, § 201(4), added par. (35). Former par. (35) redesignated (37).

Par. (36). Pub. L. 101–647, § 2522(e)(1), redesignated par. (32) as (36). Former par. (36) redesignated (40).

Pub. L. 101–311, § 201(3), redesignated par. (34) as (36). Former par. (36) redesignated (38).

Pars. (37) to (48). Pub. L. 101–647, § 2522(e)(1), redesignated pars. (33) to (44) as (37) to (48), respectively. Former pars. (45) to (48) redesignated (49) to (52), respectively.

Pub. L. 101–311, § 201(3), redesignated pars. (35) to (46) as (37) to (48), respectively. Former pars. (47) and (48) redesignated (49) and (50), respectively.

Pars. (49), (50). Pub. L. 101–647, § 2522(e)(1), redesignated pars. (45) and (46) as (49) and (50), respectively. Former pars. (49) and (50) redesignated (53) and (54) defining ''stockbroker'', respectively.

Pub. L. 101–311, § 201(3), redesignated pars. (47) and (48) as (49) and (50), respectively. Former pars. (49) and (50) redesignated (51) and (52), respectively.

Pub. L. 101–311, § 101(2), added pars. (49) and (50). Former pars. (49) and (50) redesignated (51) and (52), respectively.

Par. (51). Pub. L. 101–647, § 2522(e)(1), redesignated par. (47) as (51). Former par. (51) redesignated (55) defining ''swap agreement''.

Pub. L. 101–311, § 201(3), redesignated par. (49) as (51). Former par. (51) redesignated (53).

Pub. L. 101–311, § 101(1), redesignated par. (49) as (51). Former par. (51) redesignated (53).

Par. (52). Pub. L. 101–647, § 2522(e)(1), redesignated par. (48) as (52). Former par. (52) redesignated (56) defining ''swap participant''.

Pub. L. 101–311, § 201(3), redesignated par. (50) as (52). Former par. (52) redesignated (54) defining ''transfer''.

Pub. L. 101–311, § 101(1), redesignated par. (50) as (52). Former par. (52) redesignated (54).

Par. (53). Pub. L. 101–647, § 2522(e)(1), redesignated par. (49) as (53). Former par. (53) redesignated (57) defining ''timeshare plan''.

Pub. L. 101–311, § 201(3), redesignated par. (51) as (53). Former par. (53) redesignated (55) defining ''United States''.

Pub. L. 101–311, § 101(1), redesignated par. (51) as (53). Former par. (53) redesignated (55).

Par. (54). Pub. L. 101–647, § 2522(e)(1), redesignated par. (50) as (54) defining ''stockbroker''.

Pub. L. 101–311, § 201(3), redesignated par. (52) as (54) defining ''transfer''. Former par. (54) redesignated (56) defining ''intellectual property''.

Pub. L. 101–311, § 101(1), redesignated par. (52) as (54).

Par. (55). Pub. L. 101–647, § 2522(e)(1), redesignated par. (51) as (55) defining ''swap agreement''.

Pub. L. 101–311, § 201(3), redesignated par. (53) as (55) defining ''United States''. Former par. (55) redesignated (57) defining ''mask work''.

Pub. L. 101–311, § 101(1), redesignated par. (53) as (55).

Par. (56). Pub. L. 101–647, § 2522(e)(1), redesignated par. (52) as (56) defining ''swap participant''.

Pub. L. 101–311, § 201(3), redesignated par. (54) as (56) defining ''intellectual property''.

Par. (57). Pub. L. 101–647, § 2522(e)(1), redesignated par. (53) as (57) defining ''timeshare plan''.

Pub. L. 101–311, § 201(3), redesignated par. (55) as (57) defining ''mask work''.

1988—Par. (31). Pub. L. 100–597 inserted ''and a municipality'' after ''partnership'' in subpar. (A) and added subpar. (C).

Pars. (52), (53). Pub. L. 100–506 added pars. (52) and (53).

1986—Par. (14). Pub. L. 99–554, § 201(1), substituted ''governmental unit, and United States trustee'' for ''and governmental unit''.

Pars. (17), (18). Pub. L. 99–554, § 251(2), (3), added pars. (17) and (18) and redesignated former pars. (17) and (18) as (19) and (20), respectively.

Par. (19). Pub. L. 99–554, § 251(1), (2), redesignated former par. (17) as (19) and inserted ''(except when such term appears in the term 'family farmer')''. Former par. (19) redesignated (21).

Pars. (20) to (25). Pub. L. 99–554, § 251(2), redesignated former pars. (18) to (23) as (20) to (25), respectively. Former pars. (24) and (25) redesignated (26) and (27), respectively.

Par. (26). Pub. L. 99–554, § 201(2), inserted ''(but not a United States trustee while serving as a trustee in a case under this title)''.

Pub. L. 99–554, § 251(2), redesignated former par. (24) as (26). Former par. (26) redesignated (28).

Pars. (27) to (42). Pub. L. 99–554, § 251(2), redesignated former pars. (25) to (40) as (27) to (42), respectively. Former pars. (41) and (42) redesignated (43) and (44), respectively.

Par. (43). Pub. L. 99–554, § 251(2), redesignated former par. (41) as (43). Former par. (43) redesignated (45).

Par. (43)(A)(xv). Pub. L. 99–554, § 283(a)(1), substituted ''security'' for ''secuity''.

Pars. (44) to (50). Pub. L. 99–554, § 251(2), redesignated former pars. (42) to (48) as (44) to (50), respectively. Former par. (49) redesignated (51).

Par. (51). Pub. L. 99–554, § 283(a)(2), substituted a period for the semicolon at the end thereof.

Pub. L. 99–554, § 251(2), redesignated former par. (49) as (51).

1984—Par. (2)(D). Pub. L. 98–353, § 421(a), struck out ''or all'' after ''business''.

Par. (8)(B). Pub. L. 98–353, § 421(b), substituted a semicolon for the colon at end of subpar. (B).

Par. (9)(B). Pub. L. 98–353, § 421(c), inserted reference to section 348(d).

Par. (14). Pub. L. 98–353, § 421(d), inserted ''and'' after ''trust,''.

Pars. (19) to (21). Pub. L. 98–353, § 421(j)(3), (4), added par. (19) and redesignated former pars. (19), (20), and (21) as (20), (21), and (24), respectively.

Pars. (22), (23). Pub. L. 98–353, § 421(j)(2), (5), added pars. (22) and (23) and redesignated former pars. (22) and (23) as (25) and (26), respectively.

Pars. (24) to (26). Pub. L. 98–353, § 421(j)(2), redesignated former pars. (21) to (23) as (24) to (26), respectively. Former pars. (24) to (26) redesignated (27) to (29), respectively.

Par. (27). Pub. L. 98–353, § 421(e), (j)(2), redesignated former par. (24) as (27) and substituted ''stockbroker'' for ''stock broker''. Former par. (27) redesignated (30).

Par. (28). Pub. L. 98–353, § 421(j)(2), redesignated former par. (25) as (28). Former par. (28) redesignated (31).

Par. (29). Pub. L. 98–353, § 421(f), (j)(2), redesignated former par. (26) as (29) and, in subpar. (B)(ii), sub-

stituted ''nonpartnership'' and ''(A)'' for ''separate'' and ''(A)(ii)'', respectively, wherever appearing. Former par. (29) redesignated (32).

Pars. (30) to (32). Pub. L. 98–353, §421(j)(2), redesignated former pars. (27) to (29) as (30) to (32), respectively. Former pars. (30) to (32) redesignated (33) to (35), respectively.

Par. (33). Pub. L. 98–353, §421(g), (j)(2), redesignated former par. (30) as (33) and amended definition of ''person'' generally, thereby inserting proviso relating to consideration of certain governmental units as persons for purposes of section 1102 of this title. Former par. (33) redesignated (36).

Par. (34). Pub. L. 98–353, §421(j)(2), redesignated former par. (31) as (34). Former par. (34) redesignated (37).

Pars. (35), (36). Pub. L. 98–353, §421(j)(2), redesignated former pars. (32) and (33) as (35) and (36), respectively. Former pars. (35) and (36), as added by Pub. L. 98–353, §391(2), redesignated (38) and (39), respectively.

Pub. L. 98–353, §391, added pars. (35) and (36), and redesignated former pars. (35) and (36) as (37) and (38) which were again redesignated as (40) and (41), respectively.

Par. (37). Pub. L. 98–353, §421(j)(2), redesignated former par. (34) as (37). Former par. (37) redesignated successively as (39) and again as (42).

Par. (38). Pub. L. 98–353, §§391(2), 421(j)(2), added par. (35) and redesignated such par. (35) as (38). Former par. (38) redesignated successively as (40) and again as (43).

Par. (39). Pub. L. 98–353, §§391(2), 421(j)(2), added par. (36) and redesignated such par. (36) as (39). Former par. (39) redesignated successively as (41) and again as (45).

Par. (40). Pub. L. 98–353, §§391(1), 421(j)(2), redesignated successively former par. (35) as (37) and again as (40). Former par. (40) redesignated successively as (42) and again as (46).

Par. (41). Pub. L. 98–353, §§391(1), 401(1), 421(h), (j)(2), redesignated successively former par. (36) as (38) and again as (41), and, in subpar. (B)(vi), substituted ''certificate of a kind specified in subparagraph (A)(xii)'' for ''certificate specified in clause (xii) of subparagraph (A)'' and substituted ''required to be the subject of a registration statement'' for ''the subject of such registration statement''. Former par. (41) redesignated successively as (43), again as (44), and again as (48).

Par. (42). Pub. L. 98–353, §§391(1), 421(j)(2), redesignated successively former par. (37) as (39) and again as (42).

Par. (43). Pub. L. 98–353, §§391(1), 421(j)(2), redesignated successively former par. (38) as (40) and again as (43).

Pub. L. 98–353, §401, redesignated former par. (43), originally par. (41), as (44), and added another par. (43) which was redesignated (47).

Par. (44). Pub. L. 98–353, §421(j)(6), added par. (44). Former par. (44) originally was par. (41) and was redesignated successively as (43), again as (44), and again as (48).

Pars. (45), (46). Pub. L. 98–353, §§391(1), 421(j)(1), redesignated successively former pars. (39) and (40) as (41) and (42), and again as (45) and (46), respectively.

Par. (47). Pub. L. 98–353, §§401(2), 421(j)(1), added par. (43) and redesignated such par. (43) as (47).

Par. (48). Pub. L. 98–353, §§391(1), 401(1), 421(i), (j)(1), redesignated successively former par. (41) as (43), again as (44), and again as (48), and substituted ''and foreclosure of the debtor's equity of redemption; and'' for the period at the end.

Par. (49). Pub. L. 98–353, §421(j)(7), added par. (49).

1982—Par. (35). Pub. L. 97–222, §1(a)(2), added par. (35). Former par. (35) redesignated (36).

Par. (36). Pub. L. 97–222, §1(a)(1), (b), (c), redesignated par. (35) as (36) and substituted ''is required to be the subject of a registration statement'' for ''is the subject of a registration statement'' in subpar. (A)(xii) and substituted ''forward contract'' for ''forward commodity contract'' in subpar. (B)(iii). Former par. (36) redesignated (37).

Pars. (37) to (39). Pub. L. 97–222, §1(a)(1), redesignated pars. (36) to (38) as (37) to (39), respectively. Former par. (39) redesignated (40).

Pars. (40), (41). Pub. L. 97–222, §1(a)(1), (d), redesignated former par. (39) as (40) and restructured its provisions by dividing the former introductory provisions into subpars. (A) and (B) and by redesignating former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (B). Former par. (40) redesignated (41).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–390, §7, Dec. 12, 2006, 120 Stat. 2700, provided that: ''The amendments made by this Act [see Short Title of 2006 Amendment note set out under this section] shall not apply to any cases commenced under title 11, United States Code, or appointments made under any Federal or State law, before the date of the enactment of this Act [Dec. 12, 2006].''

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–8, title XV, §1501, Apr. 20, 2005, 119 Stat. 216, provided that:

''(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act [see Tables for classification] and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act [Apr. 20, 2005].

''(b) APPLICATION OF AMENDMENTS.—

''(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

''(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 [amending sections 104, 522, 727, 1141, 1228, and 1328 of this title] shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act [Apr. 20, 2005].''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 702 of Pub. L. 103–394 provided that:

''(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act [see Tables for classification] shall take effect on the date of the enactment of this Act [Oct. 22, 1994].

''(b) APPLICATION OF AMENDMENTS.—(1) Except as provided in paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

''(2)(A) Paragraph (1) shall not apply with respect to the amendment made by section 111 [amending section 524 of this title].

''(B) The amendments made by sections 113 and 117 [amending sections 106 and 330 of this title] shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after the date of the enactment of this Act.

''(C) Section 1110 of title 11, United States Code, as amended by section 201 of this Act, shall apply with respect to any lease, as defined in such section 1110(c) as so amended, entered into in connection with a settlement of any proceeding in any case pending under title 11 of the United States Code on the date of the enactment of this Act.

''(D) The amendments made by section 305 [amending sections 1123, 1222, and 1322 of this title] shall apply only to agreements entered into after the date of enactment of this Act.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 3017(c) of Pub. L. 102–486 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and section 541 of this title] shall take effect on the date of the enactment of this Act [Oct. 24, 1992].

''(2) The amendments made by this section shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.''

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 12 of Pub. L. 100–597 provided that:

''(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act [enacting sections 927 to 929 of this title, amending this section and sections 109, 901, 902, 922, 926, and 943 of this title, and renumbering section 927 of this title as 930] shall take effect on the date of the enactment of this Act [Nov. 3, 1988].

''(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act [Nov. 3, 1988].''

Section 2 of Pub. L. 100–506 provided that:

''(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act [amending this section and section 365 of this title] shall take effect on the date of the enactment of this Act [Oct. 18, 1988].

''(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act [Oct. 18, 1988].''

EFFECTIVE DATE OF 1986 AMENDMENT

Effective date and applicability of amendment by section 201 of Pub. L. 99–554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99–554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

Amendment by section 251 of Pub. L. 99–554 effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99–554.

Amendment by section 283 of Pub. L. 99–554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99–554.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 552, formerly § 553, of title III (§§ 301–553) of Pub. L. 98–353, as renumbered by Pub. L. 98–531, § 1(2), Oct. 19, 1984, 98 Stat. 2704, provided that:

''(a) Except as otherwise provided in this section the amendments made by this title [see Tables for classification] shall become effective to cases filed 90 days after the date of enactment of this Act [July 10, 1984].

''(b) The amendments made by section 426(b) [amending section 303 of this title] shall become effective upon the date of enactment of this Act.

''(c) The amendments made by subtitle J [enacting section 1113 of this title], shall become effective as provided in section 541(c) [set out as an Effective Date note under section 1113 of this title].''

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 112–64, § 1, Dec. 13, 2011, 125 Stat. 766, provided that: ''This Act [amending provisions set out as a note under section 707 of this title] may be cited as the 'National Guard and Reservist Debt Relief Extension Act of 2011'.''

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–327, § 1, Dec. 22, 2010, 124 Stat. 3557, provided that: ''This Act [amending this section, sections 103, 105 to 107, 109 to 111, 303, 308, 348, 362, 363, 505, 507, 521 to 524, 526, 527, 541, 554, 704, 707, 723, 724, 726, 901, 1104, 1106, 1111, 1112, 1127, 1129, 1141, 1145, 1202, 1302, 1304, 1307, 1308, 1322, 1325, 1511, 1519, 1521, and 1529 of this title, section 157 of Title 18, Crimes and Criminal Procedure, sections 158, 159, and 586 of Title 28, Judiciary and Judicial Procedure, and provisions set out as a note under section 507 of this title] may be cited as the 'Bankruptcy Technical Corrections Act of 2010'.''

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–16, § 1, May 7, 2009, 123 Stat. 1607, provided that: ''This Act [amending sections 109, 322, 332, 342, 521, 704, 749, and 764 of this title, sections 983, 1514, 1963, 2252A, 2339B, 3060, 3432, 3509, and 3771 of Title 18, Crimes and Criminal Procedure, section 7 of the Classified Information Procedures Act set out in the Appendix to Title 18, section 853 of Title 21, Food and Drugs, and sections 636, 1453, and 2107 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under section 109 of this title] may be cited as the 'Statutory Time-Periods Technical Amendments Act of 2009'.''

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–438, § 1, Oct. 20, 2008, 122 Stat. 5000, provided that: ''This Act [amending section 707 of this title and enacting provisions set out as a note under section 707 of this title] may be cited as the 'National Guard and Reservists Debt Relief Act of 2008'.''

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–439, § 1, Dec. 20, 2006, 120 Stat. 3285, provided that: ''This Act [amending section 1325 of this title] may be cited as the 'Religious Liberty and Charitable Donation Clarification Act of 2006'.''

Pub. L. 109–390, § 1, Dec. 12, 2006, 120 Stat. 2692, provided that: ''This Act [amending this section, sections 362, 546, and 741 of this title, sections 1787, 1821, 4403, and 4404 of Title 12, Banks and Banking, and section 78eee of Title 15, Commerce and Trade, and enacting provisions set out as notes under this section] may be cited as the 'Financial Netting Improvements Act of 2006'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–8, § 1(a), Apr. 20, 2005, 119 Stat. 23, provided that: ''This Act [see Tables for classification] may be cited as the 'Bankruptcy Abuse Prevention and Consumer Protection Act of 2005'.''

Pub. L. 109–8, title III, § 332(a), Apr. 20, 2005, 119 Stat. 103, provided that: ''This section [amending section 303 of this title and section 157 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Involuntary Bankruptcy Improvement Act of 2005'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–369, § 1, Oct. 25, 2004, 118 Stat. 1749, provided that: ''This Act [amending sections 1201 to 1208 and 1221 to 1231 of this title and enacting and amending provisions set out as notes under section 1201 of this title] may be cited as the 'Family Farmer Bankruptcy Relief Act of 2004'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–73, § 1, Aug. 15, 2003, 117 Stat. 891, provided that: ''This Act [amending sections 1201 to 1208 and 1221 to 1231 of this title and enacting and amending provisions set out as notes under section 1201 of this title] may be cited as the 'Family Farmer Bankruptcy Relief Act of 2003'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–377, § 1, Dec. 19, 2002, 116 Stat. 3115, provided that: ''This Act [amending sections 1201 to 1208 and 1221 to 1231 of this title, and enacting and amending provisions set out as notes under section 1201 of this title] may be cited as the 'Protection of Family Farmers Act of 2002'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–183, § 1, June 19, 1998, 112 Stat. 517, provided that: ''This Act [amending sections 544, 546, 548, 707, and 1325 of this title and enacting provisions set out as notes under section 544 of this title] may be cited as the 'Religious Liberty and Charitable Donation Protection Act of 1998'.''

SHORT TITLE OF 1994 AMENDMENT

Section 1(a) of Pub. L. 103–394 provided that: ''This Act [see Tables for classification] may be cited as the 'Bankruptcy Reform Act of 1994'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–581, § 1, Nov. 15, 1990, 104 Stat. 2865, and section 3101 of title XXXI of Pub. L. 101–647, provided

respectively that such Act and such title [amending sections 523 and 1328 of this title and enacting provisions set out as a note under section 523 of this title] may be cited as the ''Criminal Victims Protection Act of 1990''.

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–334, § 1, June 16, 1988, 102 Stat. 610, provided that: ''This Act [enacting section 1114 of this title, amending section 1129 of this title, enacting provisions set out as a note under section 1114 of this title, and amending and repealing provisions set out as notes under section 1106 of this title] may be cited as the 'Retiree Benefits Bankruptcy Protection Act of 1988'.''

SHORT TITLE OF 1984 AMENDMENT

Section 361 of subtitle C (§§ 361–363) of title III of Pub. L. 98–353 provided that: ''This subtitle [amending sections 362, 365, and 541 of this title] may be cited as the 'Leasehold Management Bankruptcy Amendments Act of 1983'.''

SAVINGS PROVISION

Pub. L. 109–8, title IX, § 912, as added Pub. L. 109–390, § 5(d), Dec. 12, 2006, 120 Stat. 2698, provided that: ''The meanings of terms used in this title [see Tables for classification] are applicable for the purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act [Pub. L. 106–102, see Short Title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking], the Legal Certainty for Bank Products Act of 2000 [7 U.S.C. 27 to 27f], the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(47)]), and the Commodity Exchange Act [7 U.S.C. 1 et seq.].''

SEPARABILITY

Section 701 of Pub. L. 103–394 provided that: ''If any provision of this Act [see Tables for classification] or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.''

Section 551 of title III (§§ 301–553) of Pub. L. 98–353 provided that: ''If any provision of this title or any amendment made by this title [see Tables for classification], or the application thereof to any person or circumstance is held invalid, the provisions of every other part, and their application shall not be affected thereby.''

CONSTRUCTION

Pub. L. 109–8, title X, § 1007(e), Apr. 20, 2005, 119 Stat. 188, provided that: ''Nothing in this section [amending this section and sections 109, 1203, and 1206 of this title] shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).''

Pub. L. 109–8, title XI, § 1101(c), Apr. 20, 2005, 119 Stat. 189, provided that: ''The amendments made by subsection (a) of this section [amending this section] shall not affect the interpretation of section 109(b) of title 11, United States Code.''

NONLIMITATION OF INFORMATION

Pub. L. 109–8, title I, § 102(e), Apr. 20, 2005, 119 Stat. 33, provided that: ''Nothing in this title [see Tables for classification] shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.''

JUDICIAL EDUCATION

Pub. L. 109–8, title XII, § 1226, Apr. 20, 2005, 119 Stat. 199, provided that: ''The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act [see Short Title of 2005 Amendment note above] and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.''

ADJUSTMENT OF DOLLAR AMOUNTS

The dollar amounts specified in this section were adjusted by notices of the Judicial Conference of the United States pursuant to section 104 of this title as follows:

By notice dated Feb. 19, 2010, 75 F.R. 8747, effective Apr. 1, 2010, in par. (3), dollar amount ''164,250'' was adjusted to ''175,750''; in par. (18)(A), (B)(ii), dollar amount ''3,544,525'' was adjusted to ''3,792,650'' each time it appeared; in par. (19A)(A)(i), (B)(ii)(II), dollar amount ''1,642,500'' was adjusted to ''1,757,475'' each time it appeared; and, in par. (51D)(A), (B), dollar amount ''2,190,000'' was adjusted to ''2,343,300'' each time it appeared. See notice of the Judicial Conference of the United States set out as a note under section 104 of this title.

By notice dated Feb. 7, 2007, 72 F.R. 7082, effective Apr. 1, 2007, in par. (3), dollar amount ''150,000'' was adjusted to ''164,250''; in par. (18), dollar amount ''3,237,000'' was adjusted to ''3,544,525'' each time it appeared; in par. (19A), dollar amount ''1,500,000'' was adjusted to ''1,642,500'' each time it appeared; and, in par. (51D), dollar amount ''2,000,000'' was adjusted to ''2,190,000'' each time it appeared.

§ 102. Rules of construction

In this title—

(1) ''after notice and a hearing'', or a similar phrase—

(A) means after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances; but

(B) authorizes an act without an actual hearing if such notice is given properly and if—

(i) such a hearing is not requested timely by a party in interest; or

(ii) there is insufficient time for a hearing to be commenced before such act must be done, and the court authorizes such act;

(2) ''claim against the debtor'' includes claim against property of the debtor;

(3) ''includes'' and ''including'' are not limiting;

(4) ''may not'' is prohibitive, and not permissive;

(5) ''or'' is not exclusive;

(6) ''order for relief'' means entry of an order for relief;

(7) the singular includes the plural;

(8) a definition, contained in a section of this title that refers to another section of this title, does not, for the purpose of such reference, affect the meaning of a term used in such other section; and

(9) ''United States trustee'' includes a designee of the United States trustee.

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2554; Pub. L. 98–353, title III, § 422, July 10, 1984, 98 Stat. 369; Pub. L. 99–554, title II, § 202, Oct. 27, 1986, 100 Stat. 3097.)