

section 129C(b)(2) of Pub. L. 90-321, as amended by title X of Pub. L. 111-203, which defines “qualified mortgage” and is classified to section 1639c(b)(2) of this title.

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of Title 12, Banks and Banking.

**§ 78p. Directors, officers, and principal stockholders**

**(a) Disclosures required**

**(1) Directors, officers, and principal stockholders required to file**

Every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered pursuant to section 78l of this title, or who is a director or an officer of the issuer of such security, shall file the statements required by this subsection with the Commission.

**(2) Time of filing**

The statements required by this subsection shall be filed—

(A) at the time of the registration of such security on a national securities exchange or by the effective date of a registration statement filed pursuant to section 78l(g) of this title;

(B) within 10 days after he or she becomes such beneficial owner, director, or officer, or within such shorter time as the Commission may establish by rule;

(C) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement involving such equity security, before the end of the second business day following the day on which the subject transaction has been executed, or at such other time as the Commission shall establish, by rule, in any case in which the Commission determines that such 2-day period is not feasible.

**(3) Contents of statements**

A statement filed—

(A) under subparagraph (A) or (B) of paragraph (2) shall contain a statement of the amount of all equity securities of such issuer of which the filing person is the beneficial owner; and

(B) under subparagraph (C) of such paragraph shall indicate ownership by the filing person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements or security-based swaps as have occurred since the most recent such filing under such subparagraph.

**(4) Electronic filing and availability**

Beginning not later than 1 year after July 30, 2002—

(A) a statement filed under subparagraph (C) of paragraph (2) shall be filed electronically;

(B) the Commission shall provide each such statement on a publicly accessible

Internet site not later than the end of the business day following that filing; and

(C) the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website, not later than the end of the business day following that filing.

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

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

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

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

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

The provisions of subsection (b) of this section shall not apply to any purchase and sale, or sale

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

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

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

**(f) Treatment of transactions in security futures products**

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

**(g) Limitation on Commission authority**

The authority of the Commission under this section with respect to security-based swap agreements shall be subject to the restrictions and limitations of section 78c-1(b) of this title.

(June 6, 1934, ch. 404, title I, §16, 48 Stat. 896; Pub. L. 88-467, §8, Aug. 20, 1964, 78 Stat. 579; Pub. L. 106-554, §1(a)(5) [title II, §208(b)(3), title III, §303(g), (h)], Dec. 21, 2000, 114 Stat. 2763, 2763A-435, 2763A-455, 2763A-456; Pub. L. 107-204, title IV, §403(a), July 30, 2002, 116 Stat. 788; Pub. L. 111-203, title VII, §762(d)(5), title IX, §929R(b), July 21, 2010, 124 Stat. 1761, 1867.)

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-203, §929R(b)(1), struck out “(and, if such security is registered on a national securities exchange, also with the exchange)” after “Commission”.

Subsec. (a)(2)(B). Pub. L. 111-203, §929R(b)(2), inserted “, or within such shorter time as the Commission may establish by rule” after “officer”.

Subsec. (a)(2)(C). Pub. L. 111-203, §762(d)(5)(A), struck out “(as defined in section 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note))” after “security-based swap agreement”.

Subsec. (a)(3)(B). Pub. L. 111-203, §762(d)(5)(B), which directed amendment of subpar. (B) by inserting “or security-based swaps” after “security-based swap agreement”, was executed by making the insertion after “security-based swap agreements”, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 111-203, §762(d)(5)(D), which directed amendment of subsec. (b) by substituting “or a security-based swap” for “(as defined in section 206B of the Gramm-Leach-Bliley Act)” in third sentence, was executed by making the substitution for “(as defined in section 206B of the Gramm-Leach-Bliley Act)” in third sentence, to reflect the probable intent of Congress.

Pub. L. 111-203, §762(d)(5)(C), struck out “(as defined in section 206B of the Gramm-Leach-Bliley Act)” after “security-based swap agreement” in first sentence.

Subsec. (g). Pub. L. 111-203, §762(d)(5)(E), struck out “(as defined in section 206B of the Gramm-Leach-Bliley Act)” after “security-based swap agreements”.

2002—Pub. L. 107-204 reenacted section catchline without change, added heading and text of subsec. (a), and struck out former subsec. (a) which read as follows: “Every person who is directly or indirectly the beneficial owner of more than 10 per centum of any class of any equity security (other than an exempted security) which is registered pursuant to section 78l of this title, or who is a director or an officer of the issuer of such security, shall file, at the time of the registration of such security on a national securities exchange or by the effective date of a registration statement filed pursuant to section 78l(g) of this title, or within ten days after he becomes such beneficial owner, director, or officer, a statement with the Commission (and, if such security is registered on a national securities exchange, also with the exchange) of the amount of all equity securities of such issuer of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) involving such equity security during such month, shall file with the Commission (and if such security is registered on a national securities exchange, shall also file with the exchange), a statement indicating his ownership at the close of the calendar month and such changes in his ownership and such purchases and sales of such security-based swap agreements as have occurred during such calendar month.”

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

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

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

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

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

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 929R(b) of Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

Amendment by section 762(d)(5) of Pub. L. 111-203 effective on the later of 360 days after July 21, 2010, or, to the extent a provision of subtitle B (§§761-774) of title VII of Pub. L. 111-203 requires a rulemaking, not less than 60 days after publication of the final rule or regulation implementing such provision of subtitle B, see section 774 of Pub. L. 111-203, set out as a note under section 77b of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-204, title IV, §403(b), July 30, 2002, 116 Stat. 789, provided that: “The amendment made by this section [amending this section] shall be effective 30 days after the date of the enactment of this Act [July 30, 2002].”

## EFFECTIVE DATE OF 1964 AMENDMENT

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

## TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

**§ 78q. Records and reports****(a) Rules and regulations**

(1) Every national securities exchange, member thereof, broker or dealer who transacts a business in securities through the medium of any such member, registered securities association, registered broker or dealer, registered municipal securities dealer municipal advisor,<sup>1</sup> registered securities information processor, registered transfer agent, nationally recognized statistical rating organization, and registered clearing agency and the Municipal Securities Rulemaking Board shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this chapter. Any report that a nationally recognized statistical rating organization is required by Commission rules under this paragraph to make and disseminate to the Commission shall be deemed furnished to the Commission.

(2) Every registered clearing agency shall also make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports, as the appropriate regulatory agency for such clearing agency, by rule, prescribes as necessary or appropriate for the safeguarding of securities and funds in the custody or control of such clearing agency or for which it is responsible.

(3) Every registered transfer agent shall also make and keep for prescribed periods such records, furnish such copies thereof, and make such reports as the appropriate regulatory agency for such transfer agent, by rule, prescribes as necessary or appropriate in furtherance of the purposes of section 78q-1 of this title.

**(b) Records subject to examination****(1) Procedures for cooperation with other agencies**

All records of persons described in subsection (a) of this section are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission and the appropriate regulatory agency for such persons as the Commission or the appropriate regulatory agency for such persons deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this chapter: *Provided, however,* That the Commission shall, prior to conducting any such examination of a—

(A) registered clearing agency, registered transfer agent, or registered municipal securities dealer for which it is not the appropriate regulatory agency, give notice to the appropriate regulatory agency for such clearing agency, transfer agent, or municipal securities dealer of such proposed examination and consult with such appropriate regulatory agency concerning the feasibility and desirability of coordinating such examination with examinations conducted by such appropriate regulatory agency with a view to avoiding unnecessary regulatory duplication or undue regulatory burdens for such clearing agency, transfer agent, or municipal securities dealer; or

(B) broker or dealer registered pursuant to section 78o(b)(11) of this title, exchange registered pursuant to section 78f(g) of this title, or national securities association registered pursuant to section 78o-3(k) of this title, give notice to the Commodity Futures Trading Commission of such proposed examination and consults<sup>2</sup> with the Commodity Futures Trading Commission concerning the feasibility and desirability of coordinating such examination with examinations conducted by the Commodity Futures Trading Commission in order to avoid unnecessary regulatory duplication or undue regulatory burdens for such broker or dealer or exchange.

**(2) Furnishing data and reports to CFTC**

The Commission shall notify the Commodity Futures Trading Commission of any examination conducted of any broker or dealer registered pursuant to section 78o(b)(11) of this title, exchange registered pursuant to section 78f(g) of this title, or national securities association registered pursuant to section 78o-3(k) of this title and, upon request, furnish to the Commodity Futures Trading Commission any examination report and data supplied to, or prepared by, the Commission in connection with such examination.

**(3) Use of CFTC reports**

Prior to conducting an examination under paragraph (1), the Commission shall use the reports of examinations, if the information available therein is sufficient for the purposes of the examination, of—

(A) any broker or dealer registered pursuant to section 78o(b)(11) of this title;

(B) exchange<sup>3</sup> registered pursuant to section 78f(g) of this title; or

(C) national<sup>4</sup> securities association registered pursuant to section 78o-3(k) of this title;

that is made by the Commodity Futures Trading Commission, a national securities association registered pursuant to section 78o-3(k) of this title, or an exchange registered pursuant to section 78f(g) of this title.

**(4) Rules of construction**

(A) Notwithstanding any other provision of this subsection, the records of a broker or

<sup>2</sup> So in original. Probably should be "consult".

<sup>3</sup> So in original. Probably should be preceded by "an".

<sup>4</sup> So in original. Probably should be preceded by "a".

<sup>1</sup> So in original.