

78aaa et seq.), as if the appointment of the Corporation as receiver had not occurred, and with a filing date as of the date on which the Corporation is appointed as receiver. The Corporation shall satisfy customer claims, to the extent that a customer would have received more securities or cash with respect to the allocation of customer property had the covered financial company been subject to a proceeding under the Securities Investor Protection Act (15 U.S.C. 78aaa et seq.) without the appointment of the Corporation as receiver, and with a filing date as of the date on which the Corporation is appointed as receiver.

(g) Priorities

(1) Customer property

As trustee for a covered broker or dealer, SIPC shall allocate customer property and deliver customer name securities in accordance with section 8(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-2(c)).

(2) Other claims

All claims other than those described in paragraph (1) (including any unpaid claim by a customer for the allowed net equity claim of such customer from customer property) shall be paid in accordance with the priorities in section 5390(b) of this title.

(h) Rulemaking

The Commission and the Corporation, after consultation with SIPC, shall jointly issue rules to implement this section.

(Pub. L. 111-203, title II, §205, July 21, 2010, 124 Stat. 1456.)

Editorial Notes

REFERENCES IN TEXT

The Securities Investor Protection Act of 1970, referred to in text, is Pub. L. 91-598, Dec. 30, 1970, 84 Stat. 1636, which is classified generally to chapter 2B-1 (§78aaa et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78aaa of Title 15 and Tables.

This subchapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 111-203, July 21, 2010, 124 Stat. 1442, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Statutory Notes and Related Subsidiaries

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 this title.

§ 5386. Mandatory terms and conditions for all orderly liquidation actions

In taking action under this subchapter, the Corporation shall—

- (1) determine that such action is necessary for purposes of the financial stability of the United States, and not for the purpose of preserving the covered financial company;
- (2) ensure that the shareholders of a covered financial company do not receive payment until after all other claims and the Fund are fully paid;

(3) ensure that unsecured creditors bear losses in accordance with the priority of claim provisions in section 5390 of this title;

(4) ensure that management responsible for the failed condition of the covered financial company is removed (if such management has not already been removed at the time at which the Corporation is appointed receiver);

(5) ensure that the members of the board of directors (or body performing similar functions) responsible for the failed condition of the covered financial company are removed, if such members have not already been removed at the time the Corporation is appointed as receiver; and

(6) not take an equity interest in or become a shareholder of any covered financial company or any covered subsidiary.

(Pub. L. 111-203, title II, §206, July 21, 2010, 124 Stat. 1459.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 111-203, July 21, 2010, 124 Stat. 1442, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Statutory Notes and Related Subsidiaries

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 this title.

§ 5387. Directors not liable for acquiescing in appointment of receiver

The members of the board of directors (or body performing similar functions) of a covered financial company shall not be liable to the shareholders or creditors thereof for acquiescing in or consenting in good faith to the appointment of the Corporation as receiver for the covered financial company under section 5383 of this title.

(Pub. L. 111-203, title II, §207, July 21, 2010, 124 Stat. 1459.)

Statutory Notes and Related Subsidiaries

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 this title.

§ 5388. Dismissal and exclusion of other actions

(a) In general

Effective as of the date of the appointment of the Corporation as receiver for the covered financial company under section 5382 of this title or the appointment of SIPC as trustee for a covered broker or dealer under section 5385 of this title, as applicable, any case or proceeding commenced with respect to the covered financial company under the Bankruptcy Code or the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) shall be dismissed, upon notice to the bankruptcy court (with respect to a