

Editorial Notes

REFERENCES IN TEXT

For amendments made by this subsection and this section, referred to in subsecs. (b) and (c), see Codification note below.

CODIFICATION

Section is comprised of section 306 of Pub. L. 107-204. Subsec. (b)(1) of section 306 of Pub. L. 107-204 amended section 1021 of Title 29, Labor, and another par. (3) of subsec. (b) amended section 1132 of Title 29.

§ 7245. Rules of professional responsibility for attorneys

Not later than 180 days after July 30, 2002, the Commission shall issue rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of issuers, including a rule—

(1) requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof, to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof); and

(2) if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors of the issuer or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the issuer, or to the board of directors.

(Pub. L. 107-204, title III, §307, July 30, 2002, 116 Stat. 784.)

§ 7246. Fair funds for investors**(a) Civil penalties to be used for the relief of victims**

If, in any judicial or administrative action brought by the Commission under the securities laws, the Commission obtains a civil penalty against any person for a violation of such laws, or such person agrees, in settlement of any such action, to such civil penalty, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.

(b) Acceptance of additional donations

The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United States for a disgorgement fund or other fund described in subsection (a). Such gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in such fund and shall be available for allocation in accordance with subsection (a).

(c) Study required**(1) Subject of study**

The Commission shall review and analyze—

(A) enforcement actions by the Commission over the five years preceding July 30, 2002, that have included proceedings to obtain civil penalties or disgorgements to identify areas where such proceedings may be utilized to efficiently, effectively, and fairly provide restitution for injured investors; and

(B) other methods to more efficiently, effectively, and fairly provide restitution to injured investors, including methods to improve the collection rates for civil penalties and disgorgements.

(2) Report required

The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after of¹ July 30, 2002, and shall use such findings to revise its rules and regulations as necessary. The report shall include a discussion of regulatory or legislative actions that are recommended or that may be necessary to address concerns identified in the study.

(Pub. L. 107-204, title III, §308, July 30, 2002, 116 Stat. 784; Pub. L. 111-203, title IX, §929B, July 21, 2010, 124 Stat. 1852.)

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CODIFICATION

Section is comprised of section 308 of Pub. L. 107-204. Subsec. (d) of section 308 of Pub. L. 107-204 amended sections 77t, 78u, 78u-1, 80a-41, and 80b-9 of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, §929B(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “If in any judicial or administrative action brought by the Commission under the securities laws (as such term is defined in section 78c(a)(47) of this title) the Commission obtains an order requiring disgorgement against any person for a violation of such laws or the rules or regulations thereunder, or such person agrees in settlement of any such action to such disgorgement, and the Commission also obtains pursuant to such laws a civil penalty against such person, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of the disgorgement fund for the benefit of the victims of such violation.”

Subsec. (b). Pub. L. 111-203, §929B(2), substituted “for a disgorgement fund or other fund described in subsection (a)” for “for a disgorgement fund described in subsection (a)” and “in such fund” for “in the disgorgement fund”.

Subsec. (e). Pub. L. 111-203, §929B(3), struck out subsec. (e). Text read as follows: “As used in this section, the term ‘disgorgement fund’ means a fund established in any administrative or judicial proceeding described in subsection (a) of this section.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by 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.

¹ So in original. The word “of” probably should not appear.