

vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review. A person or party shall be entitled to review by the Commission if he or it is adversely affected by action at a delegated level which (1) denies any request for action pursuant to section 77h(a) or section 77h(c) of this title or the first sentence of section 78l(d) of this title; (2) suspends trading in a security pursuant to section 78l(k) of this title; or (3) is pursuant to any provision of this chapter in a case of adjudication, as defined in section 551 of title 5, not required by this chapter to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a)(1) through (6) of such title 5).

(c) Finality of delegated action

If the right to exercise such review is declined, or if no such review is sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, shall, for all purposes, including appeal or review thereof, be deemed the action of the Commission.

(June 6, 1934, ch. 404, title I, § 4A, as added Pub. L. 100-181, title III, § 308(a), Dec. 4, 1987, 101 Stat. 1254.)

Editorial Notes

PRIOR PROVISIONS

A prior section 78d-1, Pub. L. 87-592, § 1, Aug. 20, 1962, 76 Stat. 394; Pub. L. 94-29, § 25, June 4, 1975, 89 Stat. 163; Pub. L. 95-251, § 2(a)(4), Mar. 27, 1978, 92 Stat. 183, provided for subject matter similar to the provisions comprising this section, prior to repeal by section 308(b) of Pub. L. 100-181.

§ 78d-2. Transfer of functions with respect to assignment of personnel to chairman

In addition to the functions transferred by the provisions of Reorganization Plan Numbered 10 of 1950 (64 Stat. 1265), there are hereby transferred from the Commission to the Chairman of the Commission the functions of the Commission with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to the Commission personnel, including Commissioners, pursuant to section 78d-1 of this title.

(June 6, 1934, ch. 404, title I, § 4B, as added Pub. L. 100-181, title III, § 308(a), Dec. 4, 1987, 101 Stat. 1255.)

Editorial Notes

REFERENCES IN TEXT

Reorganization Plan Numbered 10 of 1950 (64 Stat. 1265), referred to in text, is set out as a note under section 78d of this title.

PRIOR PROVISIONS

A prior section 78d-2, Pub. L. 87-592, § 2, Aug. 20, 1962, 76 Stat. 395, provided for subject matter similar to the provisions comprising this section, prior to repeal by section 308(b) of Pub. L. 100-181.

§ 78d-3. Appearance and practice before the Commission

(a) Authority to censure

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found by the Commission, after notice and opportunity for hearing in the matter—

(1) not to possess the requisite qualifications to represent others;

(2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or

(3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

(b) Definition

With respect to any registered public accounting firm or associated person, for purposes of this section, the term “improper professional conduct” means—

(1) intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards; and

(2) negligent conduct in the form of—

(A) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which the registered public accounting firm or associated person knows, or should know, that heightened scrutiny is warranted; or

(B) repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.

(June 6, 1934, ch. 404, title I, § 4C, as added Pub. L. 107-204, title VI, § 602, July 30, 2002, 116 Stat. 794.)

§ 78d-4. Additional duties of Inspector General

(a) Suggestion submissions by Commission employees

(1) Hotline established

The Inspector General of the Commission shall establish and maintain a telephone hotline or other electronic means for the receipt of—

(A) suggestions by employees of the Commission for improvements in the work efficiency, effectiveness, and productivity, and the use of the resources, of the Commission; and

(B) allegations by employees of the Commission of waste, abuse, misconduct, or mismanagement within the Commission.

(2) Confidentiality

The Inspector General shall maintain as confidential—

(A) the identity of any individual who provides information by the means established under paragraph (1), unless the individual requests otherwise, in writing; and

(B) at the request of any such individual, any specific information provided by the individual.