

that the Commission may not define the term ‘client’ for purposes of paragraphs (1) and (2) of section 80b-6 of this title to include an investor in a private fund managed by an investment adviser, if such private fund has entered into an advisory contract with such adviser” after “elsewhere in this subchapter”.

Subsec. (e). Pub. L. 111-203, §406(2), which directed addition of subsec. (e) at end of section, was executed by adding subsec. (e) after subsec. (d) to reflect the probable intent of Congress. See Effective Date of 2010 Amendment notes below.

Subsecs. (g), (h). Pub. L. 111-203, §913(g)(2), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 111-203, §913(h)(2), added subsec. (i).

1987—Subsec. (b). Pub. L. 100-181 substituted “chapter 15 of title 44” for “the Federal Register Act”.

1960—Subsec. (a). Pub. L. 86-750 inserted “functions and”.

Subsec. (c). Pub. L. 86-507 inserted “or certified mail” after “registered mail”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 913(g)(2), (h)(2) 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 406 of Pub. L. 111-203 effective 1 year after July 21, 2010, except that any investment adviser may, at the discretion of the investment adviser, register with the Commission under the Investment Advisers Act of 1940 during that 1-year period, subject to the rules of the Commission, and except as otherwise provided, see section 419 of Pub. L. 111-203, set out as a note under section 80b-2 of this title.

STUDY ON ENHANCING INVESTMENT ADVISER EXAMINATIONS

Pub. L. 111-203, title IX, §914, July 21, 2010, 124 Stat. 1830, provided that:

“(a) STUDY REQUIRED.—

“(1) IN GENERAL.—The Commission shall review and analyze the need for enhanced examination and enforcement resources for investment advisers.

“(2) AREAS OF CONSIDERATION.—The study required by this subsection shall examine—

“(A) the number and frequency of examinations of investment advisers by the Commission over the 5 years preceding the date of the enactment of this subtitle [July 21, 2010];

“(B) the extent to which having Congress authorize the Commission to designate one or more self-regulatory organizations to augment the Commission’s efforts in overseeing investment advisers would improve the frequency of examinations of investment advisers; and

“(C) current and potential approaches to examining the investment advisory activities of dually registered broker-dealers and investment advisers or affiliated broker-dealers and investment advisers.

“(b) 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, not later than 180 days after the date of enactment of this subtitle [July 21, 2010], and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.”

[For definitions of terms used in section 914 of Pub. L. 111-203, set out above, see section 5301 of Title 12, Banks and Banking.]

Executive Documents

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.

§ 80b-12. Hearings

Hearings may be public and may be held before the Commission, any member or members thereof, or any officer or officers of the Commission designated by it, and appropriate records thereof shall be kept.

(Aug. 22, 1940, ch. 686, title II, §212, 54 Stat. 855.)

Executive Documents

TRANSFER OF FUNCTIONS

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§ 80b-13. Court review of orders

(a) Petition; jurisdiction; findings of Commission; additional evidence; finality

Any person or party aggrieved by an order issued by the Commission under this subchapter may obtain a review of such order in the United States court of appeals within any circuit wherein such person resides or has his principal office or place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission, or any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission or unless there were reasonable grounds for failure so to do. The findings of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new find-