

TITLE 15 - COMMERCE AND TRADE

CHAPTER 2B - SECURITIES EXCHANGES

§ 78cc. Validity of contracts

(a) Waiver provisions

Any condition, stipulation, or provision binding any person to waive compliance with any provision of this chapter or of any rule or regulation thereunder, or of any rule of an exchange required thereby shall be void.

(b) Contract provisions in violation of chapter

Every contract made in violation of any provision of this chapter or of any rule or regulation thereunder, and every contract (including any contract for listing a security on an exchange) heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of this chapter or any rule or regulation thereunder, shall be void

(1) as regards the rights of any person who, in violation of any such provision, rule, or regulation, shall have made or engaged in the performance of any such contract, and

(2) as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule, or regulation: Provided,

(A) That no contract shall be void by reason of this subsection because of any violation of any rule or regulation prescribed pursuant to paragraph (3) of subsection (c) of section 78o of this title, and

(B) that no contract shall be deemed to be void by reason of this subsection in any action maintained in reliance upon this subsection, by any person to or for whom any broker or dealer sells, or from or for whom any broker or dealer purchases, a security in violation of any rule or regulation prescribed pursuant to paragraph (1) or (2) of subsection (c) of section 78o of this title, unless such action is brought within one year after the discovery that such sale or purchase involves such violation and within three years after such violation. The Commission may, in a rule or regulation prescribed pursuant to such paragraph (2) of such section 78o (c) of this title, designate such rule or regulation, or portion thereof, as a rule or regulation, or portion thereof, a contract in violation of which shall not be void by reason of this subsection.

(c) Validity of loans, extensions of credit, and creation of liens; actual knowledge of violation

Nothing in this chapter shall be construed

(1) to affect the validity of any loan or extension of credit (or any extension or renewal thereof) made or of any lien created prior or subsequent to the enactment of this chapter, unless at the time of the making of such loan or extension of credit (or extension or renewal thereof) or the creating of such lien, the person making such loan or extension of credit (or extension or renewal thereof) or acquiring such lien shall have actual knowledge of facts by reason of which the making of such loan or extension of credit (or extension or renewal thereof) or the acquisition of such lien is a violation of the provisions of this chapter or any rule or regulation thereunder, or

(2) to afford a defense to the collection of any debt or obligation or the enforcement of any lien by any person who shall have acquired such debt, obligation, or lien in good faith for value and without actual knowledge of the violation of any provision of this chapter or any rule or regulation thereunder affecting the legality of such debt, obligation, or lien.

(June 6, 1934, ch. 404, title I, § 29, 48 Stat. 903; June 25, 1938, ch. 677, § 3, 52 Stat. 1076; Pub. L. 101-429, title V, § 507, Oct. 15, 1990, 104 Stat. 956.)

References in Text

This chapter, referred to in subsecs. (a), (b), and (c), was in the original “this title”. See References in Text note set out under section 78a of this title.

Amendments

1990—Subsec. (b). Pub. L. 101–429 substituted in cl. (A) “paragraph (3)” for “paragraph (2) or (3)” and in cl. (B) “paragraph (1) or (2)” for “paragraph (1)”, and inserted at end “The Commission may, in a rule or regulation prescribed pursuant to such paragraph (2) of such section 78o (c) of this title, designate such rule or regulation, or portion thereof, as a rule or regulation, or portion thereof, a contract in violation of which shall not be void by reason of this subsection.”

1938—Subsec. (b). Act June 25, 1938, inserted proviso.

Effective Date of 1990 Amendment

Amendment by Pub. L. 101–429 effective Oct. 15, 1990, with provisions relating to civil penalties and accounting and disgorgement, see section 1(c)(1), (2) of Pub. L. 101–429, set out in a note under section 77g of this title.