SEC. 3. Section 12 of such Act is hereby amended by striking out "Comptroller of the Currency" and inserting in lieu thereof "Director of the Bureau of Federal Credit Unions".

D. C. Code 26-512.

Approved August 10, 1954.

Public Law 577 CHAPTER 667

AN ACT

August 10, 1954
[S. 2846]

To amend certain provisions of the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, the Trust Indenture Act of 1939, and the Investment Company Act of 1940.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Securities acts, etc.
Amendments.

TITLE I—AMENDMENTS TO SECURITIES ACT OF 1933, AS AMENDED

SECTION 1. Paragraph (3) of section 2 of the Securities Act of 1933 is amended to read as follows:

48 Stat. 74.
15 USC 77b.

"(3) The term 'sale' or 'sell' shall include every contract of sale or disposition of a security or interest in a security, for value. The term 'offer to sell', 'offer for sale', or 'offer' shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. The terms defined in this paragraph and the term 'offer to buy' as used in subsection (c) of section 5 shall not include preliminary negotiations or agreements between an issuer (or any person directly or indirectly controlling or controlled by an issuer, or under direct or indirect common control with an issuer) and any underwriter or among underwriters who are or are to be in privity of contract with an issuer (or any person directly or indirectly controlling or controlled by an issuer, or under direct or indirect common control with an issuer). Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been offered and sold for value. The issue or transfer of a right or privilege, when originally issued or transferred with a security, giving the holder of such security the right to convert such security into another security of the same issuer or of another person, or giving a right to subscribe to another security of the same issuer or of another person, which right cannot be exercised until some future date, shall not be deemed to be an offer or sale of such other security; but the issue or transfer of such other security upon the exercise of such right of conversion or subscription shall be deemed a sale of such other security."

"Sale", etc.

Post, p. 685.

SEC. 2. Paragraph (8) of section 2 of the Securities Act of 1933 is amended to read as follows:

15 USC 77b.

"(8) The term 'registration statement' means the statement provided for in section 6, and includes any amendment thereto and any report, document, or memorandum filed as part of such statement or incorporated therein by reference."

"Registration statement."
15 USC 77f.

SEC. 3. Paragraph (10) of section 2 of the Securities Act of 1933, as amended, is amended to read as follows:

15 USC 77b.

"(10) The term 'prospectus' means any prospectus, notice, circular, advertisement, letter, or communication, written or by radio or television, which offers any security for sale or confirms the sale of any security; except that (a) a communication sent or given after the effective date of the registration statement (other than a prospectus

"Prospectus."

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Post, p. 685.

permitted under subsection (b) of section 10) shall not be deemed a prospectus if it is proved that prior to or at the same time with such communication a written prospectus meeting the requirements of subsection (a) of section 10 at the time of such communication was sent or given to the person to whom the communication was made, and (b) a notice, circular, advertisement, letter, or communication in respect of a security shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of section 10 may be obtained and, in addition, does no more than identify the security, state the price thereof, state by whom orders will be executed, and contain such other information as the Commission, by rules or regulations deemed necessary or appropriate in the public interest and for the protection of investors, and subject to such terms and conditions as may be prescribed therein, may permit."

15 USC 77b.

SEC. 4. Paragraph (11) of section 2 of the Securities Act of 1933 is amended by inserting the words "offers or" before the word "sells".

48 Stat. 906.
15 USC 77c.

SEC. 5. Paragraph (11) of section 3 (a) of the Securities Act of 1933, as amended, is amended by inserting the words "offered and" before the word "sold".

48 Stat. 906.
15 USC 77d.

SEC. 6. Section 4 (1) of the Securities Act of 1933, as amended, is amended to read as follows:

Exemptions.

"(1) Transactions by any person other than an issuer, underwriter, or dealer; transactions by an issuer not involving any public offering; or transactions by a dealer (including an underwriter no longer acting as an underwriter in respect of the security involved in such transaction), except transactions taking place prior to the expiration of forty days after the first date upon which the security was bona fide offered to the public by the issuer or by or through an underwriter and transactions in a security as to which a registration statement has been filed taking place prior to the expiration of forty days after the effective date of such registration statement or prior to the expiration of forty days after the first date upon which the security was bona fide offered to the public by the issuer or by or through an underwriter after such effective date, whichever is later (excluding in the computation of such forty days any time during which a stop order issued under section 8 is in effect as to the security), and except transactions as to securities constituting the whole or a part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer or by or through an underwriter."

15 USC 77h.

15 USC 77e.

SEC. 7. Section 5 of the Securities Act of 1933 is amended to read as follows:

"PROHIBITIONS RELATING TO INTERSTATE COMMERCE AND THE MAILS

"SEC. 5. (a) Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or

"(2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

"(b) It shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any security with

respect to which a registration statement has been filed under this title, unless such prospectus meets the requirements of section 10; or

Infra.

"(2) to carry or cause to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless accompanied or preceded by a prospectus that meets the requirements of subsection (a) of section 10.

"(c) It shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under section 8."

15 USC 77h.

15 USC 77j.

SEC. 8. Section 10 of the Securities Act of 1933, as amended, is amended to read as follows:

"INFORMATION REQUIRED IN PROSPECTUS

"SEC. 10. (a) Except to the extent otherwise permitted or required pursuant to this subsection or subsections (c), (d), or (e)—

"(1) a prospectus relating to a security other than a security issued by a foreign government or political subdivision thereof, shall contain the information contained in the registration statement, but it need not include the documents referred to in paragraphs (28) to (32), inclusive, of schedule A;

"(2) a prospectus relating to a security issued by a foreign government or political subdivision thereof shall contain the information contained in the registration statement, but it need not include the documents referred to in paragraphs (13) and (14) of schedule B;

"(3) notwithstanding the provisions of paragraphs (1) and (2) of this subsection (a) when a prospectus is used more than nine months after the effective date of the registration statement, the information contained therein shall be as of a date not more than sixteen months prior to such use, so far as such information is known to the user of such prospectus or can be furnished by such user without unreasonable effort or expense;

"(4) there may be omitted from any prospectus any of the information required under this subsection (a) which the Commission may by rules or regulations designate as not being necessary or appropriate in the public interest or for the protection of investors.

"(b) In addition to the prospectus permitted or required in subsection (a), the Commission shall by rules or regulations deemed necessary or appropriate in the public interest or for the protection of investors permit the use of a prospectus for the purposes of subsection (b) (1) of section 5 which omits in part or summarizes information in the prospectus specified in subsection (a). A prospectus permitted under this subsection shall, except to the extent the Commission by rules or regulations deemed necessary or appropriate in the public interest or for the protection of investors otherwise provides, be filed as part of the registration statement but shall not be deemed a part of such registration statement for the purposes of section 11. The Commission may at any time issue an order preventing or suspending the use of a prospectus permitted under this subsection (b), if it has reason to believe that such prospectus has not been filed (if required to

Ante, p. 684.

15 USC 77k.

be filed as part of the registration statement) or includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which such prospectus is or is to be used, not misleading. Upon issuance of an order under this subsection, the Commission shall give notice of the issuance of such order and opportunity for hearing by personal service or the sending of confirmed telegraphic notice. The Commission shall vacate or modify the order at any time for good cause or if such prospectus has been filed or amended in accordance with such order.

"(c) Any prospectus shall contain such other information as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors.

"(d) In the exercise of its powers under subsections (a), (b), or (c), the Commission shall have authority to classify prospectuses according to the nature and circumstances of their use or the nature of the security, issue, issuer, or otherwise, and, by rules and regulations and subject to such terms and conditions as it shall specify therein, to prescribe as to each class the form and contents which it may find appropriate and consistent with the public interest and the protection of investors.

"(e) The statements or information required to be included in a prospectus by or under authority of subsections (a), (b), (c), or (d), when written, shall be placed in a conspicuous part of the prospectus and, except as otherwise permitted by rules or regulations, in type as large as that used generally in the body of the prospectus.

"(f) In any case where a prospectus consists of a radio or television broadcast, copies thereof shall be filed with the Commission under such rules and regulations as it shall prescribe. The Commission may by rules and regulations require the filing with it of forms and prospectuses used in connection with the offer or sale of securities registered under this title."

15 USC 77*l*.

SEC. 9. Section 12 of the Securities Act of 1933 is amended by inserting the words "offers or" before the word "sells" in clauses (1) and (2) thereof.

15 USC 77g.

SEC. 10. Section 17 (a) of the Securities Act of 1933 is amended by inserting the words "offer or" before the word "sale" in the introductory clause thereof.

15 USC 77v.

SEC. 11. Section 22 (a) of the Securities Act of 1933 is amended by inserting the words "offer or" before the word "sale" in the second sentence thereof.

TITLE II—AMENDMENTS TO SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

48 Stat. 891.
15 USC 78k.

SEC. 201. Subsection (d) of section 11 of the Securities Exchange Act of 1934 is amended by striking out the words "six months" where they appear in such paragraph and inserting in lieu thereof the words "thirty days".

15 USC 78*l*.

SEC. 202. The last sentence of subsection (d) of section 12 of the Securities Exchange Act of 1934 is hereby repealed.

TITLE III—AMENDMENTS TO TRUST INDENTURE ACT OF 1939

53 Stat. 1151.
15 USC 77ccc.

SEC. 301. (a) Paragraph (1) of section 303 of the Trust Indenture Act of 1939 is amended by deleting the following: "as heretofore amended,".

(b) Paragraph (2) of section 303 of the Trust Indenture Act of 1939 is amended to read as follows:

"(2) The terms 'sale', 'sell', 'offer to sell', 'offer for sale', and 'offer' shall include all transactions included in such terms as provided in paragraph (3) of section 2 of the Securities Act of 1933, except that an offer or sale of a certificate of interest or participation shall be deemed an offer or sale of the security or securities in which such certificate evidences an interest or participation if and only if such certificate gives the holder thereof the right to convert the same into such security or securities."

"Sale", etc.

Ante, p. 683.

(c) Paragraph (3) of section 303 of the Trust Indenture Act of 1939 is amended to read as follows:

15 USC 77ccc.

"(3) The term 'prospectus' shall have the meaning assigned to such term in paragraph (10) of section 2 of the Securities Act of 1933, except that in the case of securities which are not registered under the Securities Act of 1933, such term shall not include any communication (A) if it is proved that prior to or at the same time with such communication a written statement if any required by section 306 was sent or given to the persons to whom the communication was made, or (B) if such communication states from whom such statement may be obtained (if such statement is required by rules or regulations under paragraphs (1) or (2) of subsection (b) of section 306) and, in addition, does no more than identify the security, state the price thereof, state by whom orders will be executed and contain such other information as the Commission, by rules or regulations deemed necessary or appropriate in the public interest or for the protection of investors, and subject to such terms and conditions as may be prescribed therein, may permit."

"Prospectus."

Ante, p. 683.

15 USC 77a.

Post, p. 688.

(d) Paragraph (4) of section 303 of the Trust Indenture Act of 1939 is amended by inserting the words "offers or" before the word "sells".

15 USC 77ccc.

SEC. 302. Subsection (b) of section 304 of the Trust Indenture Act of 1939 is amended by deleting the following: "as heretofore amended,".

15 USC 77ddd.

SEC. 303. Subsection (c) of section 305 of the Trust Indenture Act of 1939 is amended to read as follows:

15 USC 77eee.

"(c) A prospectus relating to any such security shall include to the extent the Commission may prescribe by rules and regulations as necessary and appropriate in the public interest or for the protection of investors, as though such inclusion were required by section 10 of the Securities Act of 1933, a written statement containing the analysis set forth in the registration statement, of any indenture provisions with respect to the matters specified in paragraph (2) of subsection (a) of this section, together with a supplementary analysis, prepared by the Commission, of such provisions and of the effect thereof, if, in the opinion of the Commission, the inclusion of such supplementary analysis is necessary or appropriate in the public interest or for the protection of investors, and the Commission so declares by order after notice and, if demanded by the issuer, opportunity for hearing thereon. Such order shall be entered prior to the effective date of registration, except that if opportunity for hearing thereon is demanded by the issuer such order shall be entered within a reasonable time after such opportunity for hearing."

Ante, p. 685.

SEC. 304. Section 306 of the Trust Indenture Act of 1939 is amended to read as follows:

15 USC 77fff.

"SECURITIES NOT REGISTERED UNDER SECURITIES ACT

15 USC 77a.
15 USC 77ddd.

"SEC. 306. (a) In the case of any security which is not registered under the Securities Act of 1933 and to which this subsection is applicable notwithstanding the provisions of section 304, unless such security has been or is to be issued under an indenture and an application for qualification is effective as to such indenture, it shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or

"(2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

15 USC 77a.

"(b) In the case of any security which is not registered under the Securities Act of 1933, but which has been or is to be issued under an indenture as to which an application for qualification is effective, it shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any such security, unless such prospectus, to the extent the Commission may prescribe by rules and regulations as necessary and appropriate in the public interest or for the protection of investors, includes or is accompanied by a written statement that contains the information specified in subsection (c) of section 305; or

Ante, p. 687.

"(2) to carry or to cause to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless, to the extent the Commission may prescribe by rules and regulations as necessary or appropriate in the public interest or for the protection of investors, accompanied or preceded by a written statement that contains the information specified in subsection (c) of section 305.

Ante, p. 687.

"(c) It shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell through the use or medium of any prospectus or otherwise any security which is not registered under the Securities Act of 1933 and to which this subsection is applicable notwithstanding the provisions of section 304, unless such security has been or is to be issued under an indenture and an application for qualification has been filed as to such indenture, or while the application is the subject of a refusal order or stop order or (prior to qualification) any public proceeding or examination under section 307 (c)."

15 USC 77a.
15 USC 77ddd.

15 USC 77ggg(c).
15 USC 77xxx.

SEC. 305. Section 324 of the Trust Indenture Act of 1939 is amended by deleting the words "issuing or selling" and inserting in lieu thereof the words "offering, selling, or issuing".

TITLE IV—AMENDMENTS TO INVESTMENT COMPANY ACT OF 1940

54 Stat. 790.
15 USC 80a-2.

SEC. 401. Section 2 (a) (30) of the Investment Company Act of 1940 is amended to read as follows:

"(30) 'Prospectus', as used in section 22, means a written prospectus intended to meet the requirements of section 10 (a) of the Securities Act of 1933 and currently in use. As used elsewhere, 'prospectus' means a prospectus as defined in the Securities Act of 1933."

Ante, p. 685.

Ante, p. 683.

SEC. 402. Subsection (d) of section 24 of the Investment Company Act of 1940 is amended by adding the following at the end thereof: "The exemption provided by the third clause of section 4 (1) of the Securities Act of 1933, as amended, shall not apply to any transaction in a security issued by a face-amount certificate company or in a redeemable security issued by an open-end management company or unit investment trust, if any other security of the same class is currently being offered or sold by the issuer or by or through an underwriter in a distribution which is not exempted from section 5 of said Act, except to such extent and subject to such terms and conditions as the Commission, having due regard for the public interest and the protection of investors, may prescribe by rules or regulations with respect to any class of persons, securities, or transactions."

54 Stat. 825.
15 USC 80a-24.

Ante, p. 684.

Ante, p. 684.

SEC. 403. Section 24 of the Investment Company Act of 1940 is amended by adding at the end thereof a new subsection (e) as follows:

15 USC 80a-24.

"(e) (1) A registration statement under the Securities Act of 1933 relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust may be amended after its effective date so as to increase the securities specified therein as proposed to be offered. At the time of filing such amendment there shall be paid to the Commission a fee, calculated in the manner specified in section 6 (b) of said Act, with respect to the additional securities therein proposed to be offered.

15 USC 77b.

15 USC 77f.

"(2) The filing of such an amendment to a registration statement under the Securities Act of 1933 shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under paragraph (1) of this subsection.

"(3) For the purposes of section 11 of the Securities Act of 1933, as amended, the effective date of the latest amendment filed pursuant to this subsection or otherwise shall be deemed the effective date of the registration statement with respect to securities sold after such amendment shall have become effective. For the purposes of section 13 of the Securities Act of 1933, as amended, no such security shall be deemed to have been bona fide offered to the public prior to the effective date of the latest amendment filed pursuant to this subsection. Except to the extent the Commission otherwise provides by rules or regulations as appropriate in the public interest or for the protection of investors, no prospectus relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust which varies for the purposes of subsection (a) (3) of section 10 of the Securities Act of 1933 from the latest prospectus filed as a part of the registration statement shall be deemed to meet the requirements of said section 10 unless filed as part of an amendment to the registration statement under said Act and such amendment has become effective."

15 USC 77k.

15 USC 77m.

Ante, p. 685.

TITLE V—EFFECTIVE DATE

SEC. 501. This Act shall take effect sixty days after the date of its enactment.

Approved August 10, 1954.