jection was urged before the Administration or, if it was not so urged, unless there were reasonable grounds for failure to do so. The judgment and decree of the court affirming, modifying, or setting aside any such order of the Administration shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28.

(f) Enforcement of order

If any licensee or other person against which or against whom an order is issued under this section fails to obey the order, the Administration may apply to the United States court of appeals, within the circuit where the licensee has its principal place of business, for the enforcement of the order, and shall file a transcript of the record upon which the order complained of was entered. Upon the filing of the application the court shall cause notice thereof to be served on the licensee or other person. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in subsection (e) of this section for applications to set aside or modify orders.

(Pub. L. 85–699, title III, § 309, as added Pub. L. 87–341, § 9, Oct. 3, 1961, 75 Stat. 753; amended Pub. L. 89–779, § 4, Nov. 6, 1966, 80 Stat. 1359; Pub. L. 98–620, title IV, § 402(15)(A), (B), Nov. 8, 1984, 98 Stat. 3358.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a)(3), (4) and (b), see References in Text note set out under section 661 of this title.

AMENDMENTS

1984—Subsec. (e). Pub. L. 98–620, § 402(15)(A), struck out provision that the proceedings in such cases in the court of appeals had to be made a preferred cause and had to be expedited in every way.

Subsec. (f). Pub. L. 98–620, § 402(15)(B), struck out provision that the proceedings in such cases had to be made a preferred cause and expedited in every way.

1966—Subsec. (a). Pub. L. 89–779, § 4(b), inserted reference to revocation in introductory text preceding par. (1), and, in pars. (1) and (2), deleted restriction which limited the grounds for suspension or revocation for false or misleading statements to the situation in which such statements were made for the purpose of obtaining a license.

Subsec. (b). Pub. L. 89–779, § 4(c), expanded the Administration's authority to issue cease and desist orders by authorizing their issuance against individuals who have not complied with provisions of this chapter and against both licensees and individuals who have violated or are about to violate this chapter or regulations issued pursuant thereto.

Subsec. (c). Pub. L. 89–779, § 4(d), inserted references to persons involved other than the licensee and to the revocation of licenses so as to conform the subsec. to the expansion of the Administration's authority to revoke licenses and to issue cease and desist orders to persons other than licensees under subsecs. (a) and (b).

Subsec. (e). Pub. L. 89–779, § 4(e), authorized the appeal from an order issued by the Administration under this section by other persons, besides the licensee, against whom an order is issued.

Subsec. (f). Pub. 89–779, § 4(f), provided that individuals as well as licensees are to be affected by subsec. (f).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 687b. Investigations and examinations; power to subpena and take oaths and affirmations; aid of courts; examiners; reports

(a) Investigation of violations

The Administration may make such investigations as it deems necessary to determine whether a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or of any rule or regulation under this chapter, or of any order issued under this chapter. The Administration shall permit any person to file with it a statement in writing, under oath or otherwise as the Administration shall determine, as to all the facts and circumstances concerning the matter to be investigated. For the purpose of any investigation, the Administration is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a licensee, the Administration may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Administration, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(b) Examinations and reports

Each small business investment company shall be subject to examinations made by direction of the Investment Division of the Administration, which may be conducted with the assistance of a private sector entity that has both the qualifications to conduct and expertise in conducting such examinations, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Administration be assessed against the company examined and when so assessed shall be paid by such company. Fees collected under this subsection shall be deposited in the account for salaries and expenses of the Administration, and are authorized to be appropriated solely to cover the costs of examinations and other program oversight activities. Every such company shall make such reports to the Administration at such times and in such form as the Administration may require; except that the Administration is authorized to exempt from making such reports any such company which is registered under the Investment Company Act of 1940 [15

U.S.C. 80a–1 et seq.] to the extent necessary to avoid duplication in reporting requirements.

(c) Examinations of small business investment companies

Each small business investment company shall be examined at least every two years in such detail so as to determine whether or not—

(1) it has engaged solely in lawful activities and those contemplated by this subchapter;

(2) it has engaged in prohibited conflicts of interest;

(3) it has acquired or exercised illegal control of an assisted small business;

(4) it has made investments in small businesses for not less than 1 year;

(5) it has invested more than 20 per centum of its capital in any individual small business, if such restriction is applicable;

(6) it has engaged in relending, foreign investments, or passive investments; or

(7) it has charged an interest rate in excess of the maximum permitted by law:

Provided, That the Administration may waive the examination (A) for up to one additional year if, in its discretion, it determines such a delay would be appropriate, based upon the amount of debentures being issued by the company and its repayment record, the prior operating experience of the company, the contents and results of the last examination and the management expertise of the company, or (B) if it is a company whose operations have been suspended while the company is involved in litigation or is in receivership.

(d) Valuations

(1) Frequency of valuations

(A) In general

Each licensee shall submit to the Administrator a written valuation of the loans and investments of the licensee not less often than semiannually or otherwise upon the request of the Administrator, except that any licensee with no leverage outstanding shall submit such valuations annually, unless the Administrator determines otherwise.

(B) Material adverse changes

Not later than 30 days after the end of a fiscal quarter of a licensee during which a material adverse change in the aggregate valuation of the loans and investments or operations of the licensee occurs, the licensee shall notify the Administrator in writing of the nature and extent of that change.

(C) Independent certification

(i) In general

Not less than once during each fiscal year, each licensee shall submit to the Administrator the financial statements of the licensee, audited by an independent certified public accountant approved by the Administrator.

(ii) Audit requirements

Each audit conducted under clause (i) shall include—

(I) a review of the procedures and documentation used by the licensee in preparing the valuations required by this section; and

(II) a statement by the independent certified public accountant that such valuations were prepared in conformity with the valuation criteria applicable to the licensee established in accordance with paragraph (2).

(2) Valuation criteria

Each valuation submitted under this subsection shall be prepared by the licensee in accordance with valuation criteria, which shall—

(A) be established or approved by the Administrator; and

(B) include appropriate safeguards to ensure that the noncash assets of a licensee are not overvalued.

(Pub. L. 85–699, title III, § 310, as added Pub. L. 87–341, § 9, Oct. 3, 1961, 75 Stat. 755; amended Pub. L. 89–779, § 5, Nov. 6, 1966, 80 Stat. 1360; Pub. L. 90–104, title II, § 208, Oct. 11, 1967, 81 Stat. 271; Pub. L. 100–590, title I, § 104, Nov. 3, 1988, 102 Stat. 2992; Pub. L. 102–366, title IV, §§ 406(b), 407(a), 408(b), Sept. 4, 1992, 106 Stat. 1016; Pub. L. 104–208, div. D, title II, § 208(f), (h)(1)(C), Sept. 30, 1996, 110 Stat. 3009–745, 3009–747; Pub. L. 105–135, title II, § 216, Dec. 2, 1997, 111 Stat. 2603; Pub. L. 106–554, § 1(a)(9) [title IV, § 406], Dec. 21, 2000, 114 Stat. 2763, 2763A–691.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see References in Text note set out under section 661 of this title.

The Investment Company Act of 1940, referred to in subsec. (b), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§ 80a–1 et seq.) of chapter 2D of this title. For complete classification of this Act to the Code, see section 80a–51 of this title and Tables.

AMENDMENTS

2000—Subsec. (c)(4). Pub. L. 106–554 substituted ''1 year'' for ''five years''.

1997—Subsec. (b). Pub. L. 105–135 inserted after first sentence ''Fees collected under this subsection shall be deposited in the account for salaries and expenses of the Administration, and are authorized to be appropriated solely to cover the costs of examinations and other program oversight activities.''

1996—Subsec. (b). Pub. L. 104–208, § 208(f)(1), inserted ''which may be conducted with the assistance of a private sector entity that has both the qualifications to conduct and expertise in conducting such examinations,'' after ''Investment Division of the Administration,'' in first sentence.

Subsec. (c)(4). Pub. L. 104–208, § 208(h)(1)(C), struck out ''not less than four years in the case of section 301(d) licensees and in all other cases,'' after ''small businesses for''.

Subsec. (d). Pub. L. 104–208, § 208(f)(2), inserted heading and amended text of subsec. (d) generally. Prior to amendment, text read as follows: ''Each small business investment company shall adopt written guidelines for determination of the value of investments made by such company. The board of directors of corporations and the general partners of partnerships shall have the sole responsibility for making a good faith determination of the fair market value of the investments made by such company. Determinations shall be made and reported to the Administration not less than semiannually or at more frequent intervals as the Administration determines appropriate: *Provided*, That any com-

pany which does not have outstanding financial assistance under the provisions of this subchapter shall be required to make such determinations and reports to the Administration annually, unless the Administration, in its discretion, determines otherwise.''

1992—Subsec. (b). Pub. L. 102–366, § 407(a), substituted ''Investment Division of'' for ''Administration by examiners selected or approved by''.

Subsec. (c)(5). Pub. L. 102–366, § 408(b), inserted before semicolon at end '', if such restriction is applicable''.

Subsec. (d). Pub. L. 102–366, § 406(b), added subsec. (d).

1988—Subsec. (b). Pub. L. 100–590 struck out second sentence, which read as follows: ''Each such company shall be examined at least once each year, except that the Administrator may waive examination in the case of a company whose operations have been suspended by reason of the fact that the company is involved in litigation or is in receivership.''

Subsec. (c). Pub. L. 100–590 added subsec. (c).

1967—Subsec. (b). Pub. L. 90–104 required at least annual examination of small business investment companies but provided for waiver of examination of a company whose operations have been suspended because the company is involved in litigation or is in receivership.

1966—Pub. L. 89–779 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–104 effective 90 days after Oct. 11, 1967, see section 211 of Pub. L. 90–104, set out as a note under section 681 of this title.

EFFECT OF SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992 ON SECURITIES LAWS

Nothing in amendment by Pub. L. 102–366 to be construed to affect applicability of securities laws or to otherwise supersede or limit jurisdiction of Securities and Exchange Commission, see section 418 of Pub. L. 102–366, set out as a note under section 661 of this title.

TRANSFER OF RESOURCES

Section 407(b) of Pub. L. 102–366 provided that: ''Effective October 1, 1992, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, and other funds employed, held, used, arising from, available or to be made available, which are related to the examination function provided by section 310 of the Small Business Investment Act of 1958 [15 U.S.C. 687b] shall be transferred by the Inspector General of the Small Business Administration to the Investment Division of the Small Business Administration.''

§ 687c. Injunctions and other orders

(a) Grounds; jurisdiction of court

Whenever, in the judgment of the Administration, a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or of any rule or regulation under this chapter, or of any order issued under this chapter, the Administration may make application to the proper district court of the United States or a United States court of any place subject to the jurisdiction of the United States for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such licensee or other person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

(b) Equity jurisdiction of licensee and assets thereof

In any such proceeding the court as a court of equity may, to such extent as it deems necessary, take exclusive jurisdiction of the licensee or licensees and the assets thereof, wherever located; and the court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

(c) Trusteeship or receivership over licensee

The Administration shall have authority to act as trustee or receiver of the licensee. Upon request by the Administration, the court may appoint the Administration to act in such capacity unless the court deems such appointment inequitable or otherwise inappropriate by reason of the special circumstances involved.

(Pub. L. 85–699, title III, § 311, as added Pub. L. 87–341, § 9, Oct. 3, 1961, 75 Stat. 755; amended Pub. L. 89–779, § 6, Nov. 6, 1966, 80 Stat. 1360; Pub. L. 98–620, title IV, § 402(15)(C), Nov. 8, 1984, 98 Stat. 3358.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see References in Text note set out under section 661 of this title.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–620 struck out provision that the proceedings in such a case had to be made a preferred cause and had to be expedited in every way.

1966—Subsec. (c). Pub. L. 89–779 added subsec. (c).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 687d. Conflicts of interest

For the purpose of controlling conflicts of interest which may be detrimental to small business concerns, to small business investment companies, to the shareholders, partners, or members of either, or to the purposes of this chapter, the Administration shall adopt regulations to govern transactions with any officer, director, shareholder, partner, or member of any small business investment company, or with any person or concern, in which any interest, direct or indirect, financial or otherwise, is held by any officer, director, shareholder, partner, or member of (1) any small business investment company, or (2) any person or concern with an interest, direct or indirect, financial or otherwise, in any small business investment company. Such regulations shall include appropriate requirements for public disclosure necessary to the purposes of this section.

(Pub. L. 85–699, title III, § 312, as added Pub. L. 88–273, § 6(a), Feb. 28, 1964, 78 Stat. 147; amended Pub. L. 94–305, title I, § 106(f), June 4, 1976, 90 Stat. 666; Pub. L. 104–208, div. D, title II,