

lations, or orders thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. A criminal proceeding based upon a violation of section 80a-33 of this title, or upon a failure to file a report or other document required to be filed under this subchapter, may be brought in the district wherein the defendant is an inhabitant or maintains his principal office or place of business. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this subchapter or rules, regulations, or orders thereunder, may be brought in any such district or in the district wherein the defendant is an inhabitant or transacts business, and process in such cases may be served in any district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291, 1292, and 1294 of title 28. No costs shall be assessed for or against the Commission in any proceeding under this subchapter brought by or against the Commission in any court. The Commission may intervene as a party in any action or suit to enforce any liability or duty created by, or to enjoin any noncompliance with, section 80a-35(b) of this title at any stage of such action or suit prior to final judgment therein.

(Aug. 22, 1940, ch. 686, title I, §44, 54 Stat. 844; Pub. L. 91-547, §22, Dec. 14, 1970, 84 Stat. 1430.)

#### AMENDMENTS

1970—Pub. L. 91-547 substituted reference to “sections 1254, 1291, 1292, and 1294 of title 28” for “sections 225 and 347 of title 28 and section 7, as amended, of the Act entitled ‘An Act to establish a court of appeals for the District of Columbia, approved February 9, 1893’” and provided for Commission intervention as a party in any action or suit to enforce any liability or duty created by, or to enjoin any noncompliance with, section 80a-35(b) of this title at any stage of such action or suit prior to final judgment therein, respectively.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-547 effective Dec. 14, 1970, see section 30 of Pub. L. 91-547, set out as a note under section 80a-52 of this title.

#### 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.

### § 80a-44. Disclosure of information filed with Commission; copies

(a) The information contained in any registration statement, application, report, or other document filed with the Commission pursuant to any provision of this subchapter or of any rule or regulation thereunder (as distinguished from any information or document transmitted to the Commission) shall be made available to the public, unless and except insofar as the Commission, by rules and regulations upon its own motion, or by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors. Except as provided in section

78x(c) of this title, it shall be unlawful for any member, officer, or employee of the Commission to use for personal benefit, or to disclose to any person other than an official or employee of the United States or of a State, for official use, or for any such official or employee to use for personal benefit, any information contained in any document so filed or transmitted, if such information is not available to the public.

(b) Photostatic or other copies of information contained in documents filed with the Commission under this subchapter and made available to the public shall be furnished any person at such reasonable charge and under such reasonable limitations as the Commission shall prescribe.

(Aug. 22, 1940, ch. 686, title I, §45, 54 Stat. 845; Pub. L. 101-550, title II, §202(b)(1), Nov. 15, 1990, 104 Stat. 2715.)

#### AMENDMENTS

1990—Subsec. (a). Pub. L. 101-550 substituted “Except as provided in section 78x(c) of this title, it shall be unlawful” for “It shall be unlawful”.

#### 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.

### § 80a-45. Reports by Commission; hiring and leasing authority

#### (a) Omitted

#### (b) Hiring and leasing authority

The provisions of section 78d(b) of this title shall be applicable with respect to the power of the Commission—

(1) to appoint and fix the compensation of such employees as may be necessary for carrying out its functions under this subchapter, and

(2) to lease and allocate such real property as may be necessary for carrying out its functions under this subchapter.

(Aug. 22, 1940, ch. 686, title I, §46, 54 Stat. 845; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Pub. L. 101-550, title I, §104(c), Nov. 15, 1990, 104 Stat. 2714.)

#### CODIFICATION

Subsection (a), which required the Securities and Exchange Commission to submit an annual report to Congress on the work of the Commission, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 191 of House Document No. 103-7.

#### AMENDMENTS

1990—Subsec. (b). Pub. L. 101-550 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to appointment and compensation of employees.

1949—Subsec. (b). Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

#### REPEALS

Act Oct. 28, 1949, ch. 782, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

## 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.

**§ 80a-46. Validity of contracts****(a) Waiver of compliance as void**

Any condition, stipulation, or provision binding any person to waive compliance with any provision of this subchapter or with any rule, regulation, or order thereunder shall be void.

**(b) Equitable results; rescission; severance**

(1) A contract that is made, or whose performance involves, a violation of this subchapter, or of any rule, regulation, or order thereunder, is unenforceable by either party (or by a nonparty to the contract who acquired a right under the contract with knowledge of the facts by reason of which the making or performance violated or would violate any provision of this subchapter or of any rule, regulation, or order thereunder) unless a court finds that under the circumstances enforcement would produce a more equitable result than nonenforcement and would not be inconsistent with the purposes of this subchapter.

(2) To the extent that a contract described in paragraph (1) has been performed, a court may not deny rescission at the instance of any party unless such court finds that under the circumstances the denial of rescission would produce a more equitable result than its grant and would not be inconsistent with the purposes of this subchapter.

(3) This subsection shall not apply (A) to the lawful portion of a contract to the extent that it may be severed from the unlawful portion of the contract, or (B) to preclude recovery against any person for unjust enrichment.

(Aug. 22, 1940, ch. 686, title I, §47, 54 Stat. 845; Pub. L. 96-477, title I, §104, Oct. 21, 1980, 94 Stat. 2277.)

## AMENDMENTS

1980—Subsec. (b). Pub. L. 96-477 provided that a contract whose terms violated this subchapter or any rule, regulation, or order thereunder would be unenforceable by either party or by a nonparty to the contract who acquired a right under such contract with knowledge of the facts by reason of which the making or performance of the contract would violate this subchapter, struck out provisions declaring such contracts void as regards the rights of the violators or nonparties to the contract with actual knowledge of its illegality, authorized the court to enforce such contracts where the court found that under the circumstances enforcement would produce a more equitable result than nonenforcement and such enforcement would not be inconsistent with the purposes of this subchapter, authorized the same two-part test to save from rescission any portions of such contracts which had been performed, and provided that subsec. (b) was not to apply to a lawful portion of a contract to the extent it could be severed from an unlawful portion of such contract, or to preclude recovery against any person for unjust enrichment.

**§ 80a-47. Violation of subchapter****(a) Procurement**

It shall be unlawful for any person, directly or indirectly, to cause to be done any act or thing

through or by means of any other person which it would be unlawful for such person to do under the provisions of this subchapter or any rule, regulation, or order thereunder.

**(b) Obstructing compliance**

It shall be unlawful for any person without just cause to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, record, or account required to be made, filed, or kept under any provision of this subchapter or any rule, regulation, or order thereunder.

(Aug. 22, 1940, ch. 686, title I, §48, 54 Stat. 846.)

**§ 80a-48. Penalties**

Any person who willfully violates any provision of this subchapter or of any rule, regulation, or order hereunder, or any person who willfully in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to this subchapter or the keeping of which is required pursuant to section 80a-30(a) of this title makes any untrue statement of a material fact or omits to state any material fact necessary in order to prevent the statements made therein from being materially misleading in the light of the circumstances under which they were made, shall upon conviction be fined not more than \$10,000 or imprisoned not more than five years, or both; but no person shall be convicted under this section for the violation of any rule, regulation, or order if he proves that he had no actual knowledge of such rule, regulation, or order.

(Aug. 22, 1940, ch. 686, title I, §49, 54 Stat. 846; Pub. L. 94-29, §27(e), June 4, 1975, 89 Stat. 163.)

## AMENDMENTS

1975—Pub. L. 94-29 substituted “or imprisoned not more than five years” for “or imprisoned not more than two years”.

## EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-29 effective June 4, 1975, see section 31(a) of Pub. L. 94-29, set out as a note under section 78b of this title.

**§ 80a-49. Construction with other laws**

Except where specific provision is made to the contrary, nothing in this subchapter shall affect (1) the jurisdiction of the Commission under the Securities Act of 1933 [15 U.S.C. 77a et seq.], the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], the Public Utility Holding Company Act of 1935,<sup>1</sup> the Trust Indenture Act of 1939 [15 U.S.C. 77aaa et seq.], or subchapter II of this chapter, over any person, security, or transaction, or (2) the rights, obligations, duties, or liabilities of any person under such Acts; nor shall anything in this subchapter affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or transaction, insofar as such jurisdiction does not conflict with any provision of this subchapter or of any rule, regulation, or order hereunder.

(Aug. 22, 1940, ch. 686, title I, §50, 54 Stat. 846.)

<sup>1</sup> See References in Text note below.