

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 1935,¹ 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.)

¹ See References in Text note below.

REFERENCES IN TEXT

The Securities Act of 1933, referred to in text, is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of this title. For complete classification of this Act to the Code, see section 77a of this title and Tables.

The Securities Exchange Act of 1934, referred to in text, is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified generally to chapter 2B (§78a et seq.) of this title. For complete classification of this Act to the Code, see section 78a of this title and Tables.

The Public Utility Holding Company Act of 1935, referred to in text, is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§79 et seq.) of this title, prior to repeal by Pub. L. 109-58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

The Trust Indenture Act of 1939, referred to in text, is title III of act May 27, 1933, ch. 38, as added Aug. 3, 1939, ch. 411, 53 Stat. 1149, and amended, which is classified generally to subchapter III (§77aaa et seq.) of chapter 2A of this title. For complete classification of this Act to the Code, see section 77aaa of this title and Tables.

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§ 80a-50. Separability

If any provision of this subchapter or any provision incorporated in this subchapter by reference, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this subchapter and the application of any such provision to person or circumstances other than those as to which it is held invalid shall not be affected thereby.

(Aug. 22, 1940, ch. 686, title I, §51, 54 Stat. 846.)

§ 80a-51. Short title

This subchapter may be cited as the "Investment Company Act of 1940".

(Aug. 22, 1940, ch. 686, title I, §52, 54 Stat. 847.)

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-290, title II, §201, Oct. 11, 1996, 110 Stat. 3426, provided that: "This title [amending sections 80a-2, 80a-3, 80a-12, 80a-24, 80a-26, 80a-27, 80a-29, 80a-30, 80a-34, and 80b-5 of this title and enacting provisions set out as notes under sections 80a-2, 80a-3, and 80a-24 of this title] may be cited as the 'Investment Company Act Amendments of 1996'."

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104-62, §1(a), Dec. 8, 1995, 109 Stat. 682, provided that: "This Act [enacting section 80a-3a of this title, amending sections 77c, 78c, 78l, 80a-3, 80a-7, and 80b-3 of this title, and enacting provisions set out as a note under section 77c of this title] may be cited as the 'Philanthropy Protection Act of 1995'."

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-477, §1, Oct. 21, 1980, 94 Stat. 2275, provided that: "That this Act [enacting sections 80a-53 to 80a-64 and 80c to 80c-3 of this title, amending sections 77b, 77c, 77d, 77s, 77ddd, 78c, 78kk, 80a-2, 80a-3, 80a-6, 80a-46, 80b-2, 80b-3, and 80b-5 of this title, and enacting provisions set out as notes under sections 77a and 80c of this title] may be cited as the 'Small Business Investment Incentive Act of 1980'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-547, §1, Dec. 14, 1970, 84 Stat. 1413, provided: "That this Act [enacting section 80b-6a of this title, amending sections 77b, 77c, 78c, 78l, 80a-2, 80a-3, 80a-8 to 80a-13, 80a-15, 80a-17 to 80a-19, 80a-22, 80a-24 to 80a-28, 80a-31, 80a-32, 80a-35, 80a-42, 80a-43, 80b-2, 80b-3, and 80b-5 of this title, and enacting provisions set out as notes under sections 77c and 80a-2 of this title] may be cited as the 'Investment Company amendments Act of 1970'."

§ 80a-52. Effective date

The effective date of the provisions of this subchapter, so far as the same relate to face-amount certificates or to face-amount certificate companies, is January 1, 1941. The effective date of provisions hereof, insofar as the same do not apply to face-amount certificates or face-amount certificate companies is November 1, 1940. Except as herein otherwise provided, every provision of this subchapter shall take effect on November 1, 1940.

(Aug. 22, 1940, ch. 686, title I, §53, 54 Stat. 847; Pub. L. 100-181, title VI, §624, Dec. 4, 1987, 101 Stat. 1262.)

AMENDMENTS

1987—Pub. L. 100-181 struck out at end of first sentence "": *Provided, however*, That any such face-amount certificate company may register prior to said date, as provided by section 80a-8 of this title, and such registration shall not operate to change or affect said effective date as to any such company or any face-amount certificates issued by it".

EFFECTIVE DATE OF 1970 AMENDMENT

Section 30 of Pub. L. 91-547 provided that: "This Act [see Short Title note set out under section 80a-51 of this title] shall take effect on the date of its enactment [Dec. 14, 1970], except that—

"(1) sections (5)(a), (b), and (c); 8; 9(a); 11; 18; 24(a); and 25 (amending sections 10(a), (b), and (c) [section 80a-10(a), (b), and (c)]; 15 [section 80a-15]; 17(f) [section 80a-17(f)]; 19 [section 80a-19]; and 32(a) of the Investment Company Act of 1940 [section 80a-31(a)]; and sections 203(b) and 205 of the Investment Advisers Act of 1940 [sections 80b-3(b) and 80b-5 of this title], respectively shall take effect upon the expiration of one year after the date of enactment of this Act [Dec. 14, 1970];

"(2) that part of section 5(d) which substitutes 'interested persons' for 'affiliated persons' in section 10(d) of the Investment Company Act of 1940 [section 80a-10(d) of this title] shall take effect upon the expiration of one year after the date of enactment of this Act [Dec. 14, 1970];

"(3) sections 16 and 17 (amending section 27 and 28 of the Investment Company Act of 1940 [sections 80a-27 and 80a-28 of this title]) shall take effect upon the expiration of six months after the date of enactment of this Act [Dec. 14, 1970]; and

"(4) that part of section 20 which adds a subsection (b) to section 36 of the Investment Company Act of 1940 [section 80a-35 of this title] shall take effect upon the expiration of eighteen months after the date of enactment of this Act [Dec. 14, 1970]."

§ 80a-53. Election to be regulated as business development company**(a) Eligibility**

Any company defined in section 80a-2(a)(48)(A) and (B) of this title may elect to be subject to the provisions of sections 80a-54 through 80a-64 of this title by filing with the Commission a notification of election, if such company—