

(Aug. 22, 1940, ch. 686, title II, §206, 54 Stat. 852; Pub. L. 86-750, §§8, 9, Sept. 13, 1960, 74 Stat. 887.)

AMENDMENTS

1960—Pub. L. 86-750, §8, struck out “registered under section 80b-3 of this title” from introductory text.

Par. (4). Pub. L. 86-750, §9, added par. (4).

§ 80b-6a. Exemptions

The Commission, by rules and regulations, upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons, or transactions, from any provision or provisions of this subchapter or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this subchapter.

(Aug. 22, 1940, ch. 686, title II, §206A, as added Pub. L. 91-547, §26, Dec. 14, 1970, 84 Stat. 1433.)

EFFECTIVE DATE

Section effective Dec. 14, 1970, see section 30 of Pub. L. 91-547, set out as a note under section 80a-2 of this title.

§ 80b-7. Material misstatements

It shall be unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission under section 80b-3 or 80b-4 of this title, or willfully to omit to state in any such application or report any material fact which is required to be stated therein.

(Aug. 22, 1940, ch. 686, title II, §207, 54 Stat. 853.)

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.

§ 80b-8. General prohibitions

(a) Representations of sponsorship by United States or agency thereof

It shall be unlawful for any person registered under section 80b-3 of this title to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that his abilities or qualifications have in any respect been passed upon by the United States or any agency or any officer thereof.

(b) Statement of registration under Securities Exchange Act of 1934 provisions

No provision of subsection (a) of this section shall be construed to prohibit a statement that a person is registered under this subchapter or under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], if such statement is true in fact and if the effect of such registration is not misrepresented.

(c) Use of name “investment counsel” as descriptive of business

It shall be unlawful for any person registered under section 80b-3 of this title to represent that

he is an investment counsel or to use the name “investment counsel” as descriptive of his business unless (1) his or its principal business consists of acting as investment adviser, and (2) a substantial part of his or its business consists of rendering investment supervisory services.

(d) Use of indirect means to do prohibited act

It shall be unlawful for any person indirectly, or through or by any other person, to do any act or thing which it would be unlawful for such person to do directly under the provisions of this subchapter or any rule or regulation thereunder.

(Aug. 22, 1940, ch. 686, title II, §208, 54 Stat. 853; Pub. L. 86-750, §§10, 11, Sept. 13, 1960, 74 Stat. 887.)

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (b), 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.

AMENDMENTS

1960—Pub. L. 86-750, §10, substituted “General prohibitions” for “Unlawful representations” in section catchline.

Subsec. (c). Pub. L. 86-750, §11(a), authorized representation as an investment counsel if person’s principal business consisted of acting as investment adviser, and a substantial part of the business was rendering investment supervisory services, and struck out the requirements that the person be primarily engaged in rendering investment supervisory services, or that his registration application state that the person is, or is about to become engaged primarily in rendering investment advisory services.

Subsec. (d). Pub. L. 86-750, §11(b), added subsec. (d).

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.

§ 80b-9. Enforcement of subchapter

(a) Investigation

Whenever it shall appear to the Commission, either upon complaint or otherwise, that the provisions of this subchapter or of any rule or regulation prescribed under the authority thereof, have been or are about to be violated by any person, it may in its discretion require, and in any event shall permit, such person to file with it a statement in writing, under oath or otherwise, as to all the facts and circumstances relevant to such violation, and may otherwise investigate all such facts and circumstances.

(b) Administration of oaths and affirmations, subpoena of witnesses, etc.

For the purposes of any investigation or any proceeding under this subchapter, any member of the Commission or any officer thereof designated by it is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which are relevant or material to