

of this section were increased from one-fiftieth of one percentum to one-thirty-third of one percentum, and such increase was to be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process, was from the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, and was not repeated in subsequent appropriations acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104-134, title I, § 101[(a)] [title V], Apr. 26, 1996, 110 Stat. 1321, 1321-60; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 104-99, title II, § 209, Jan. 26, 1996, 110 Stat. 37.

Pub. L. 104-56, § 119, Nov. 20, 1995, 109 Stat. 552.

Pub. L. 104-54, § 119, Nov. 19, 1995, 109 Stat. 544.

Pub. L. 104-31, § 120, Sept. 30, 1995, 109 Stat. 282.

Pub. L. 103-352, Oct. 10, 1994, 108 Stat. 3148.

Pub. L. 103-121, title I, Oct. 27, 1993, 107 Stat. 1168.

Pub. L. 102-395, title I, Oct. 6, 1992, 106 Stat. 1848.

Pub. L. 102-140, title I, Oct. 28, 1991, 105 Stat. 798.

Pub. L. 101-515, title V, Nov. 5, 1990, 104 Stat. 2139.

Pub. L. 101-162, title V, Nov. 21, 1989, 103 Stat. 1022.

§ 77g. Information required in registration statement

(a) The registration statement, when relating to a security other than a security issued by a foreign government, or political subdivision thereof, shall contain the information, and be accompanied by the documents, specified in Schedule A of section 77aa of this title, and when relating to a security issued by a foreign government, or political subdivision thereof, shall contain the information, and be accompanied by the documents, specified in Schedule B of section 77aa of this title; except that the Commission may by rules or regulations provide that any such information or document need not be included in respect of any class of issuers or securities if it finds that the requirement of such information or document is inapplicable to such class and that disclosure fully adequate for the protection of investors is otherwise required to be included within the registration statement. If any accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, is named as having prepared or certified any part of the registration statement, or is named as having prepared or certified a report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement. If any such person is named as having prepared or certified a report or valuation (other than a public official document or statement) which is used in connection with the registration statement, but is not named as having prepared or certified such report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement unless the Commission dispenses with such filing as impracticable or as involving undue hardship on the person filing the registration statement. Any such registration statement shall contain such other information, and be accompanied by such other documents, as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors.

(b)(1) The Commission shall prescribe special rules with respect to registration statements

filed by any issuer that is a blank check company. Such rules may, as the Commission determines necessary or appropriate in the public interest or for the protection of investors—

(A) require such issuers to provide timely disclosure, prior to or after such statement becomes effective under section 77h of this title, of (i) information regarding the company to be acquired and the specific application of the proceeds of the offering, or (ii) additional information necessary to prevent such statement from being misleading;

(B) place limitations on the use of such proceeds and the distribution of securities by such issuer until the disclosures required under subparagraph (A) have been made; and

(C) provide a right of rescission to shareholders of such securities.

(2) The Commission may, as it determines consistent with the public interest and the protection of investors, by rule or order exempt any issuer or class of issuers from the rules prescribed under paragraph (1).

(3) For purposes of paragraph (1) of this subsection, the term “blank check company” means any development stage company that is issuing a penny stock (within the meaning of section 78c(a)(51) of this title) and that—

(A) has no specific business plan or purpose; or

(B) has indicated that its business plan is to merge with an unidentified company or companies.

(May 27, 1933, ch. 38, title I, § 7, 48 Stat. 78; Pub. L. 101-429, title V, § 508, Oct. 15, 1990, 104 Stat. 956.)

AMENDMENTS

1990—Pub. L. 101-429 designated existing provision as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1(c) of Pub. L. 101-429 provided that:

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this Act [enacting sections 77h-1, 78q-2, 78u-2, and 78u-3 of this title, amending this section and sections 77t, 78c, 78o, 78o-3, 78o-4, 78q-1, 78u, 78u-1, 78w, 78cc, 80a-9, 80a-41, 80b-3, 80b-9, and 80b-14 of this title, and enacting provisions set out as notes under sections 78a, 78o, and 78s of this title] shall be effective upon enactment [Oct. 15, 1990].

“(2) CIVIL PENALTIES.—

“(A) IN GENERAL.—No civil penalty may be imposed pursuant to the amendments made by this Act on the basis of conduct occurring before the date of enactment of this Act [Oct. 15, 1990].

“(B) ACCOUNTING AND DISGORGEMENT.—Subparagraph (A) shall not operate to preclude the Securities and Exchange Commission from ordering an accounting or disgorgement pursuant to the amendments made by this Act.

“(3) SPECIAL RULES FOR TITLE V.—

“(A) SECTIONS 503 AND 504.—Except as provided in subparagraph (C), sections 503 [amending section 78c of this title] and 504 [amending section 78o of this title and enacting provisions set out as a note under section 78o of this title] shall be effective 12 months after the date of enactment of this Act [Oct. 15, 1990] or upon the issuance of final regulations initially implementing such section, whichever is earlier.

“(B) SECTIONS 505 AND 508.—Except as provided in subparagraph (C), sections 505 [amending section 78o of this title] and 508 [amending this section] shall be effective 18 months after the date of enactment of

this Act or upon the issuance of final regulations initially implementing such sections, whichever is earlier.

“(C) COMMENCEMENT OF RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Commission shall commence rulemaking proceedings to implement sections 503, 505, and 508.”

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.

§ 77h. Taking effect of registration statements and amendments thereto

(a) Effective date of registration statement

Except as hereinafter provided, the effective date of a registration statement shall be the twentieth day after the filing thereof or such earlier date as the Commission may determine, having due regard to the adequacy of the information respecting the issuer theretofore available to the public, to the facility with which the nature of the securities to be registered, their relationship to the capital structure of the issuer and the rights of holders thereof can be understood, and to the public interest and the protection of investors. If any amendment to any such statement is filed prior to the effective date of such statement, the registration statement shall be deemed to have been filed when such amendment was filed; except that an amendment filed with the consent of the Commission, prior to the effective date of the registration statement, or filed pursuant to an order of the Commission, shall be treated as a part of the registration statement.

(b) Incomplete or inaccurate registration statement

If it appears to the Commission that a registration statement is on its face incomplete or inaccurate in any material respect, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice not later than ten days after the filing of the registration statement, and opportunity for hearing (at a time fixed by the Commission) within ten days after such notice by personal service or the sending of such telegraphic notice, issue an order prior to the effective date of registration refusing to permit such statement to become effective until it has been amended in accordance with such order. When such statement has been amended in accordance with such order the Commission shall so declare and the registration shall become effective at the time provided in subsection (a) of this section or upon the date of such declaration, whichever date is the later.

(c) Effective date of amendment to registration statement

An amendment filed after the effective date of the registration statement, if such amendment, upon its face, appears to the Commission not to be incomplete or inaccurate in any material respect, shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

(d) Untrue statements or omissions in registration statement

If it appears to the Commission at any time that the registration statement 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 not misleading, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice, and after opportunity for hearing (at a time fixed by the Commission) within fifteen days after such notice by personal service or the sending of such telegraphic notice, issue a stop order suspending the effectiveness of the registration statement. When such statement has been amended in accordance with such stop order, the Commission shall so declare and thereupon the stop order shall cease to be effective.

(e) Examination for issuance of stop order

The Commission is empowered to make an examination in any case in order to determine whether a stop order should issue under subsection (d) of this section. In making such examination the Commission or any officer or officers designated by it shall have access to and may demand the production of any books and papers of, and may administer oaths and affirmations to and examine, the issuer, underwriter, or any other person, in respect of any matter relevant to the examination, and may, in its discretion, require the production of a balance sheet exhibiting the assets and liabilities of the issuer, or its income statement, or both, to be certified to by a public or certified accountant approved by the Commission. If the issuer or underwriter shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of a stop order.

(f) Notice requirements

Any notice required under this section shall be sent to or served on the issuer, or, in case of a foreign government or political subdivision thereof, to or on the underwriter, or, in the case of a foreign or Territorial person, to or on its duly authorized representative in the United States named in the registration statement, properly directed in each case of telegraphic notice to the address given in such statement.

(May 27, 1933, ch. 38, title I, § 8, 48 Stat. 79; Aug. 22, 1940, ch. 686, title III, § 301, 54 Stat. 857.)

AMENDMENTS

1940—Subsec. (a). Act Aug. 22, 1940, amended subsec. (a) generally.

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.

§ 77h-1. Cease-and-desist proceedings

(a) Authority of Commission

If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any pro-