

any class of outstanding securities (other than short-term paper) of which a registered closed-end company is the issuer or who is an officer, director, member of an advisory board, investment adviser, or affiliated person of an investment adviser of such a company shall in respect of his transactions in any securities of such company (other than short-term paper) be subject to the same duties and liabilities as those imposed by section 16 of the Securities Exchange Act of 1934 [15 U.S.C. 78p] upon certain beneficial owners, directors, and officers in respect of their transactions in certain equity securities.

(i) Disclosure to church plan participants

A person that maintains a church plan that is excluded from the definition of an investment company solely by reason of section 80a-3(c)(14) of this title shall provide disclosure to plan participants, in writing, and not less frequently than annually, and for new participants joining such a plan after May 31, 1996, as soon as is practicable after joining such plan, that—

(1) the plan, or any company or account maintained to manage or hold plan assets and interests in such plan, company, or account, are not subject to registration, regulation, or reporting under this subchapter, 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.], or State securities laws; and

(2) plan participants and beneficiaries therefore will not be afforded the protections of those provisions.

(j) Notice to Commission

The Commission may issue rules and regulations to require any person that maintains a church plan that is excluded from the definition of an investment company solely by reason of section 80a-3(c)(14) of this title to file a notice with the Commission containing such information and in such form as the Commission may prescribe as necessary or appropriate in the public interest or consistent with the protection of investors.

(Aug. 22, 1940, ch. 686, title I, § 30, 54 Stat. 836; Pub. L. 104-290, title II, § 206, title V, § 508(g), Oct. 11, 1996, 110 Stat. 3430, 3449; Pub. L. 105-353, title III, § 301(c)(5), Nov. 3, 1998, 112 Stat. 3237.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (i)(1), 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 subsec. (i)(1), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally 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

1998—Subsec. (b)(1). Pub. L. 105-353, § 301(c)(5)(A), inserted “and” after semicolon at end.

Subsec. (e). Pub. L. 105-353, § 301(c)(5)(B), substituted “semiannually” for “semi-annually” in introductory provisions.

Subsecs. (g) to (j). Pub. L. 105-353, § 301(c)(5)(C), redesignated subsecs. (g) and (h), relating to disclosure to

church plan participants and notice to Commission, respectively, as (i) and (j), respectively.

1996—Subsec. (b)(1). Pub. L. 104-290, § 206(1), added par. (1) and struck out former par. (1) which read as follows: “such information and documents (other than financial statements) as the Commission may require, on a semi-annual or quarterly basis, to keep reasonably current the information and documents contained in the registration statement of such company filed under this subchapter; and”.

Subsecs. (c) to (e). Pub. L. 104-290, § 206(2), (3), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively. Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 104-290, § 206(2), (4), added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 104-290, § 508(g), added subsec. (g), relating to disclosure to church plan participants.

Pub. L. 104-290, § 206(2), (5), redesignated subsec. (e), relating to certificate of independent public accountants, as (g), and substituted “pursuant to subsections (a) and (e) of this section” for “pursuant to subsections (a) and (d) of this section”.

Subsec. (h). Pub. L. 104-290, § 508(g), added subsec. (h), relating to notice to Commission.

Pub. L. 104-290, § 206(2), redesignated subsec. (f), relating to duties and liabilities of affiliated persons, as (h).

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-30. Accounts and records

(a) Maintenance of records

(1) In general

Each registered investment company, and each underwriter, broker, dealer, or investment adviser that is a majority-owned subsidiary of such a company, shall maintain and preserve such records (as defined in section 78c(a)(37) of this title) for such period or periods as the Commission, by rules and regulations, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Each investment adviser that is not a majority-owned subsidiary of, and each depositor of any registered investment company, and each principal underwriter for any registered investment company other than a closed-end company, shall maintain and preserve for such period or periods as the Commission shall prescribe by rules and regulations, such records as are necessary or appropriate to record such person's transactions with such registered company.

(2) Minimizing compliance burden

In exercising its authority under this subsection, the Commission shall take such steps as it deems necessary or appropriate, consistent with the public interest and for the protection of investors, to avoid unnecessary record-keeping by, and minimize the compliance burden on, persons required to maintain records under this subsection (hereafter in this section referred to as “subject persons”). Such steps shall include considering, and requesting public comment on—

(A) feasible alternatives that minimize the recordkeeping burdens on subject persons;

(B) the necessity of such records in view of the public benefits derived from the inde-

pendent scrutiny of such records through Commission examination;

(C) the costs associated with maintaining the information that would be required to be reflected in such records; and

(D) the effects that a proposed record-keeping requirement would have on internal compliance policies and procedures.

(b) Examinations of records

(1) In general

All records required to be maintained and preserved in accordance with subsection (a) of this section shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe.

(2) Availability

For purposes of examinations referred to in paragraph (1), any subject person shall make available to the Commission or its representatives any copies or extracts from such records as may be prepared without undue effort, expense, or delay as the Commission or its representatives may reasonably request.

(3) Commission action

The Commission shall exercise its authority under this subsection with due regard for the benefits of internal compliance policies and procedures and the effective implementation and operation thereof.

(c) Limitations on disclosure by Commission

Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any internal compliance or audit records, or information contained therein, provided to the Commission under this section. Nothing in this subsection shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of the jurisdiction of that department or agency, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, this section shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(d) Definitions

For purposes of this section—

(1) the term “internal compliance policies and procedures” means policies and procedures designed by subject persons to promote compliance with the Federal securities laws; and

(2) the term “internal compliance and audit record” means any record prepared by a subject person in accordance with internal compliance policies and procedures.

(e) Regulatory authority

The Commission may, in the public interest or for the protection of investors, issue rules and regulations providing for a reasonable degree of uniformity in the accounting policies and principles to be followed by registered investment

companies in maintaining their accounting records and in preparing financial statements required pursuant to this subchapter.

(f) Exemption authority

The Commission, upon application made by any registered investment company, may by order exempt a specific transaction or transactions from the provisions of any rule or regulation made pursuant to subsection (e) of this section, if the Commission finds that such rule or regulation should not reasonably be applied to such transaction.

(Aug. 22, 1940, ch. 686, title I, §31, 54 Stat. 838; Pub. L. 104-290, title II, §207, Oct. 11, 1996, 110 Stat. 3430; Pub. L. 105-353, title III, §301(c)(6), Nov. 3, 1998, 112 Stat. 3237.)

AMENDMENTS

1998—Subsec. (f). Pub. L. 105-353 substituted “subsection (e)” for “subsection (c)”.

1996—Subsecs. (a), (b). Pub. L. 104-290, §207(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

“(a) Every registered investment company, and every underwriter, broker, dealer, or investment adviser which is a majority-owned subsidiary of such a company, shall maintain and preserve for such period or periods as the Commission may prescribe by rules and regulations, such accounts, books, and other documents as constitute the record forming the basis for financial statements required to be filed pursuant to section 80a-29 of this title, and of the auditor’s certificates relating thereto. Every investment adviser not a majority-owned subsidiary of, and every depositor of any registered investment company, and every principal underwriter for any registered investment company other than a closed-end company, shall maintain and preserve for such period or periods as the Commission shall prescribe by rules and regulations, such accounts, books, and other documents as are necessary or appropriate to record such person’s transactions with such registered company.

“(b) All accounts, books, and other records, required to be maintained and preserved by any person pursuant to subsection (a) of this section, shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Any such person shall furnish to the Commission, within such reasonable time as the Commission may prescribe, copies of or extracts from such records which may be prepared without undue effort, expense, or delay, as the Commission may by order require.”

Subsecs. (c), (d). Pub. L. 104-290, §207(3), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (e) and (f), respectively.

Subsec. (e). Pub. L. 104-290, §207(2), (4), redesignated subsec. (c) as (e) and inserted heading.

Subsec. (f). Pub. L. 104-290, §207(2), (5), redesignated subsec. (d) as (f) and inserted heading.

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-31. Accountants and auditors

(a) Selection of accountant

It shall be unlawful for any registered management company or registered face-amount certificate company to file with the Commission any financial statement signed or certified by an independent public accountant, unless—