

## 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

Pub. L. 91-547, §30, Dec. 14, 1970, 84 Stat. 1436, 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—

(1) has a class of its equity securities registered under section 78l of this title; or

(2) has filed a registration statement pursuant to section 78l of this title for a class of its equity securities.

#### (b) Form and manner of notification; effect

The Commission may, by rule, prescribe the form and manner in which notification of election under this section shall be given. A business development company shall be deemed to be subject to sections 80a-54 through 80a-64 of this title upon receipt by the Commission of such notification of election.

#### (c) Revocation or withdrawal of election

Whenever the Commission finds, on its own motion or upon application, that a business development company which has filed a notification of election pursuant to subsection (a) of this section has ceased to engage in business, the Commission shall so declare by order revoking such company's election. Any business development company may voluntarily withdraw its election under subsection (a) of this section by filing a notice of withdrawal of election with

the Commission, in a form and manner which the Commission may, by rule, prescribe. Such withdrawal shall be effective immediately upon receipt by the Commission.

(Aug. 22, 1940, ch. 686, title I, §54, as added Pub. L. 96-477, title I, §105, Oct. 21, 1980, 94 Stat. 2278; amended Pub. L. 100-181, title VI, §625, Dec. 4, 1987, 101 Stat. 1262.)

## AMENDMENTS

1987—Subsec. (a). Pub. L. 100-181 substituted “defined in section” for “defined in sections”.

### § 80a-54. Acquisition of assets by business development companies

#### (a) Permissible assets; percentage

It shall be unlawful for a business development company to acquire any assets (other than those described in paragraphs (1) through (7) of this subsection) unless, at the time the acquisition is made, assets described in paragraphs (1) through (6) below represent at least 70 per centum of the value of its total assets (other than assets described in paragraph (7) below):

(1) securities purchased, in transactions not involving any public offering or in such other transactions as the Commission may, by rule, prescribe if it finds that enforcement of this subchapter and of the Securities Act of 1933 [15 U.S.C. 77a et seq.] with respect to such transactions is not necessary in the public interest or for the protection of investors by reason of the small amount, or the limited nature of the public offering, involved in such transactions—

(A) from the issuer of such securities, which issuer is an eligible portfolio company, from any person who is, or who within the preceding thirteen months has been, an affiliated person of such eligible portfolio company, or from any other person, subject to such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors; or

(B) from the issuer of such securities, which issuer is described in section 80a-2(a)(46)(A) and (B) of this title but is not an eligible portfolio company because it has issued a class of securities with respect to which a member of a national securities exchange, broker, or dealer may extend or maintain credit to or for a customer pursuant to rules or regulations adopted by the Board of Governors of the Federal Reserve System under section 78g of this title, or from any person who is an officer or employee of such issuer, if—

(i) at the time of the purchase, the business development company owns at least 50 per centum of—

(I) the greatest number of equity securities of such issuer and securities convertible into or exchangeable for such securities; and

(II) the greatest amount of debt securities of such issuer,

held by such business development company at any point in time during the period when such issuer was an eligible port-