

§ 80b-15. 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) Rights affected by invalidity

Every contract made in violation of any provision of this subchapter and every contract heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of any provision of this subchapter, or any rule, regulation, or order thereunder, shall be void (1) as regards the rights of any person who, in violation of any such provision, rule, regulation, or order, shall have made or engaged in the performance of any such contract, and (2) as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision.

(Aug. 22, 1940, ch. 686, title II, §215, 54 Stat. 856.)

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-16. Omitted

CODIFICATION

Section, act Aug. 22, 1940, ch. 686, title II, §216, 54 Stat. 857, which required the Securities and Exchange Commission to submit an annual report to Congress on the work of the Commission, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 191 of House Document No. 103-7.

§ 80b-17. Penalties

Any person who willfully violates any provision of this subchapter, or any rule, regulation, or order promulgated by the Commission under authority thereof, shall, upon conviction, be fined not more than \$10,000, imprisoned for not more than five years, or both.

(Aug. 22, 1940, ch. 686, title II, §217, 54 Stat. 857; Pub. L. 86-750, §15, Sept. 13, 1960, 74 Stat. 888; Pub. L. 94-29, §27(f), June 4, 1975, 89 Stat. 163.)

AMENDMENTS

1975—Pub. L. 94-29 substituted “imprisoned for not more than five years” for “imprisoned for not more than two years”.

1960—Pub. L. 86-750 inserted “, or any rule, regulation or order promulgated by the Commission under authority thereof.”.

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.

§ 80b-18. Hiring and leasing authority of Commission

The provisions of section 78d(b) of this title shall be applicable with respect to the power of the Commission—

(1) to appoint and fix the compensation of such other employees as may be necessary for carrying out its functions under this subchapter, and

(2) to lease and allocate such real property as may be necessary for carrying out its functions under this subchapter.

(Aug. 22, 1940, ch. 686, title II, §218, 54 Stat. 857; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Pub. L. 101-550, title I, §104(d), Nov. 15, 1990, 104 Stat. 2714.)

AMENDMENTS

1990—Pub. L. 101-550 amended section generally. Prior to amendment, section related to appointment and compensation of employees.

1949—Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

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-18a. State regulation of investment advisers**(a) Jurisdiction of State regulators**

Nothing in this subchapter shall affect the jurisdiction of the securities commissioner (or any agency or officer performing like functions) of any State over any security or any person insofar as it does not conflict with the provisions of this subchapter or the rules and regulations thereunder.

(b) Dual compliance purposes

No State may enforce any law or regulation that would require an investment adviser to maintain any books or records in addition to those required under the laws of the State in which it maintains its principal office and place of business, if the investment adviser—

(1) is registered or licensed as such in the State in which it maintains its principal office and place of business; and

(2) is in compliance with the applicable books and records requirements of the State in which it maintains its principal office and place of business.

(c) Limitation on capital and bond requirements

No State may enforce any law or regulation that would require an investment adviser to maintain a higher minimum net capital or to post any bond in addition to any that is required under the laws of the State in which it maintains its principal office and place of business, if the investment adviser—

(1) is registered or licensed as such in the State in which it maintains its principal office and place of business; and

(2) is in compliance with the applicable net capital or bonding requirements of the State in which it maintains its principal office and place of business.

(d) National de minimis standard

No law of any State or political subdivision thereof requiring the registration, licensing, or qualification as an investment adviser shall require an investment adviser to register with the securities commissioner of the State (or any agency or officer performing like functions) or to comply with such law (other than any provision thereof prohibiting fraudulent conduct) if the investment adviser—

(1) does not have a place of business located within the State; and

(2) during the preceding 12-month period, has had fewer than 6 clients who are residents of that State.

(Aug. 22, 1940, ch. 686, title II, § 222, as added Pub. L. 86-750, § 16, Sept. 13, 1960, 74 Stat. 888; amended Pub. L. 104-290, title III, § 304, Oct. 11, 1996, 110 Stat. 3438; Pub. L. 105-353, title III, § 301(d)(2), Nov. 3, 1998, 112 Stat. 3237; Pub. L. 111-203, title IX, § 985(e)(4), July 21, 2010, 124 Stat. 1935.)

AMENDMENTS

2010—Subsecs. (b), (c). Pub. L. 111-203 substituted “principal office and place of business” for “principal place of business” wherever appearing.

1998—Subsec. (b)(2). Pub. L. 105-353 substituted “principal” for “principle”.

1996—Pub. L. 104-290 substituted “regulation” for “control” in section catchline and amended text generally, designating existing provisions as subsec. (a), inserting heading, and adding subsecs. (b) to (d).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-290 effective 270 days after Oct. 11, 1996, see section 308(a) of Pub. L. 104-290, as amended, set out as a note under section 80b-2 of this title.

§ 80b-18b. Custody of client accounts

An investment adviser registered under this subchapter shall take such steps to safeguard client assets over which such adviser has custody, including, without limitation, verification of such assets by an independent public accountant, as the Commission may, by rule, prescribe.

(Aug. 22, 1940, ch. 686, title II, § 223, as added Pub. L. 111-203, title IV, § 411, July 21, 2010, 124 Stat. 1577.)

EFFECTIVE DATE

Section effective 1 year after July 21, 2010, except that any investment adviser may, at the discretion of the investment adviser, register with the Commission under the Investment Advisers Act of 1940 during that 1-year period, subject to the rules of the Commission, and except as otherwise provided, see section 419 of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 80b-2 of this title.

§ 80b-18c. Rule of construction relating to the Commodities Exchange Act

Nothing in this subchapter shall relieve any person of any obligation or duty, or affect the

availability of any right or remedy available to the Commodity Futures Trading Commission or any private party, arising under the Commodity Exchange Act (7 U.S.C. 1 et seq.) governing commodity pools, commodity pool operators, or commodity trading advisors.

(Aug. 22, 1940, ch. 686, title II, § 224, as added Pub. L. 111-203, title IV, § 414, July 21, 2010, 124 Stat. 1578.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in text, is act Sept. 21, 1922, ch. 369, 42 Stat. 998, which is classified generally to chapter 1 (§ 1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

EFFECTIVE DATE

Section effective 1 year after July 21, 2010, except that any investment adviser may, at the discretion of the investment adviser, register with the Commission under the Investment Advisers Act of 1940 during that 1-year period, subject to the rules of the Commission, and except as otherwise provided, see section 419 of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 80b-2 of this title.

§ 80b-19. Separability

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

(Aug. 22, 1940, ch. 686, title II, § 219, 54 Stat. 857.)

§ 80b-20. Short title

This subchapter may be cited as the “Investment Advisers Act of 1940”.

(Aug. 22, 1940, ch. 686, title II, § 220, 54 Stat. 857.)

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-203, title IV, § 401, July 21, 2010, 124 Stat. 1570, provided that: “This title [enacting sections 80b-18b and 80b-18c of this title, amending sections 80b-2, 80b-3, 80b-3a, 80b-4, 80b-5, 80b-10, and 80b-11 of this title, and enacting provisions set out as notes under sections 77b and 80b-2 of this title] may be cited as the ‘Private Fund Investment Advisers Registration Act of 2010.’”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-290, title III, § 301, Oct. 11, 1996, 110 Stat. 3436, provided that: “This title [enacting section 80b-3a of this title, amending sections 80b-2, 80b-3, and 80b-18a of this title and section 1002 of Title 29, Labor, and enacting provisions set out as notes under sections 80b-2, 80b-3a, and 80b-10 of this title and section 1002 of Title 29] may be cited as the ‘Investment Advisers Supervision Coordination Act.’”

§ 80b-21. Effective date

This subchapter shall become effective on November 1, 1940.

(Aug. 22, 1940, ch. 686, title II, § 221, 54 Stat. 857.)

CHAPTER 2E—OMNIBUS SMALL BUSINESS CAPITAL FORMATION

Sec.

80c.

Liaison between Securities Exchange Commission and Small Business Administration.