

certificate of such independent public accountants shall be based upon an audit not less in scope or procedures followed than that which independent public accountants would ordinarily make for the purpose of presenting comprehensive and dependable financial statements, and shall contain such information as the Commission may prescribe, by rules and regulations in the public interest or for the protection of investors, as to the nature and scope of the audit and the findings and opinion of the accountants. Each such report shall state that such independent public accountants have verified securities owned, either by actual examination, or by receipt of a certificate from the custodian, as the Commission may prescribe by rules and regulations.

**(h) Duties and liabilities of affiliated persons**

Every person who is directly or indirectly the beneficial owner of more than 10 per centum of 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)” for “pursuant to subsections (a) and (d)”.

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. Each person having custody or use of the securities, deposits, or credits of a registered investment company shall maintain and preserve all records that relate to the custody or use by such person of the securities, deposits, or credits of the registered investment company for such period or periods as the Commission, by rule or regulation, may prescribe, as necessary or appropriate in the public interest or for the protection of investors.

**(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 independent 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) 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.

**(4) Records of persons with custody or use**

**(A) In general**

Records of persons having custody or use of the securities, deposits, or credits of a registered investment company that relate to such custody or use, are subject at any

time, or from time to time, to such reasonable periodic, special, or other examinations and other information and document requests by representatives of the Commission, as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

**(B) Certain persons subject to other regulation**

Any person that is subject to regulation and examination by a Federal financial institution regulatory agency (as such term is defined under section 212(c)(2) of title 18) may satisfy any examination request, information request, or document request described under subparagraph (A), by providing to the Commission a detailed listing, in writing, of the securities, deposits, or credits of the registered investment company within the custody or use of such person.

**(c) 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.

**(d) 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), 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; Pub. L. 111-203, title IX, §§929I(b), 929Q(a), July 21, 2010, 124 Stat. 1858, 1865; Pub. L. 111-257, §1(b), Oct. 5, 2010, 124 Stat. 2646.)

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-203, §929Q(a)(1), inserted at end "Each person having custody or use of the securities, deposits, or credits of a registered investment company shall maintain and preserve all records that relate to the custody or use by such person of the securities, deposits, or credits of the registered investment company for such period or periods as the Commission, by rule or regulation, may prescribe, as necessary or appropriate in the public interest or for the protection of investors."

Subsec. (b)(4). Pub. L. 111-203, §929Q(a)(2), added par. (4).

Subsec. (c). Pub. L. 111-257 redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: "Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any records or information provided to the Commission under this section, or records or information based upon or derived from such records or information, if such records or information have been obtained by the Commission for use in furtherance of the purposes of this subchapter, including surveillance, risk assessments, or other regulatory and oversight activities. Nothing in this subsection au-

thorizes 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 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. Collection of information pursuant to this section shall be an administrative action involving an agency against specific individuals or agencies pursuant to section 3518(c)(1) of title 44."

Pub. L. 111-203, §929I(b)(1), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "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."

Subsec. (d). Pub. L. 111-257, §1(b)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 111-203, §929I(b)(2), (3), redesignated subsec. (e) as (d) and struck out former subsec. (d) which defined "internal compliance policies and procedures" and "internal compliance and audit record" for purposes of this section.

Subsec. (e). Pub. L. 111-257, §1(b)(2), redesignated subsec. (e) as (d).

Pub. L. 111-203, §929I(b)(3), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 111-203, §929I(b)(3), redesignated subsec. (f) as (e).

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.

#### 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.

#### 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—

(1) such accountant shall have been selected at a meeting held within thirty days before or after the beginning of the fiscal year or before the annual meeting of stockholders in that year by the vote, cast in person, of a majority of those members of the board of directors who are not interested persons of such registered company;

(2) such selection shall have been submitted for ratification or rejection at the next succeeding annual meeting of stockholders if such meeting be held, except that any vacancy occurring between annual meetings, due to the death or resignation of the accountant, may be filled by the vote of a majority of those members of the board of directors who are not interested persons of such registered company, cast in person at a meeting called for the purpose of voting on such action;

(3) the employment of such accountant shall have been conditioned upon the right of the company by vote of a majority of the outstanding voting securities at any meeting called for the purpose to terminate such employment forthwith without any penalty; and

(4) such certificate or report of such accountant shall be addressed both to the board of directors of such registered company and to the security holders thereof.

If the selection of an accountant has been rejected pursuant to paragraph (2) or his employment terminated pursuant to paragraph (3), the vacancy so occurring may be filled by a vote of a majority of the outstanding voting securities, either at the meeting at which the rejection or termination occurred or, if not so filled, at a subsequent meeting which shall be called for the purpose. In the case of a common-law trust of the character described in section 80a-16(c) of this title, no ratification of the employment of such accountant shall be required but such employment may be terminated and such accountant removed by action of the holders of record of a majority of the outstanding shares of bene-