purposes of section 5(b)(1) of that Act [15 U.S.C. 77e(b)(1)] with respect to securities issued by a registered investment company. Such a prospectus, which may include information the substance of which is not included in the prospectus specified in section 10(a) of the Securities Act of 1933, shall be deemed to be permitted by section 10(b) of that Act [15 U.S.C. 77j(b)].

(Aug. 22, 1940, ch. 686, title I, § 24, 54 Stat. 825; Aug. 10, 1954, ch. 667, title IV, §§ 402, 403, 68 Stat. 689; Pub. L. 91–547, § 13, Dec. 14, 1970, 84 Stat. 1423; Pub. L. 100–181, title VI, § 617, Dec. 4, 1987, 101 Stat. 1262; Pub. L. 104–290, title II, §§ 203(a), (b), 204, Oct. 11, 1996, 110 Stat. 3427, 3428.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsecs. (a), (c), and (e), 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.

For the effective date of this subchapter, referred to in subsec. (c), see section 80a–52 of this title.

Section 4(3) of the Securities Act of 1933, referred to in subsec. (d), was redesignated section 4(a)(3) of that Act by Pub. L. 112–106, title II, § 201(b)(1), (c)(1), Apr. 5, 2012, 126 Stat. 314, and is classified to section 77d(a)(3) of this title.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–290, § 203(a), substituted ''For'' for ''(3) For'', struck out ''pursuant to this subsection or otherwise'' before ''shall be deemed the effective date of the registration statement'', and struck out pars. (1) and (2) which read as follows:

''(1) A registration statement under the Securities Act of 1933 relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust may be amended after its effective date so as to increase the securities specified therein as proposed to be offered. At the time of filing such amendment there shall be paid to the Commission a fee, calculated in the manner specified in section 6(b) of said Act, with respect to the additional securities therein proposed to be offered.

''(2) The filing of such an amendment to a registration statement under the Securities Act of 1933 shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under paragraph (1) of this subsection.''

Subsec. (f). Pub. L. 104–290, § 203(b), inserted heading and amended text generally. Prior to amendment, text read as follows: ''In the case of securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust, which are sold in an amount in excess of the number of securities included in an effective registration statement of any such company, such company may, in accordance with such rules and regulations as the Commission shall adopt as it deems necessary or appropriate in the public interest or for the protection of investors, elect to have the registration of such securities deemed effective as of the time of their sale, upon payment to the Commission, within six months after any such sale, of a registration fee of three times the amount of the fee which would have otherwise been applicable to such securities. Upon any such election and payment, the registration statement of such company shall be considered to have been in effect with respect to such shares. The Commission may also adopt rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors to permit the registration of an indefinite number of the securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust.''

Subsec. (g). Pub. L. 104–290, § 204, added subsec. (g).

1987—Subsec. (d). Pub. L. 100–181 struck out '', except a security sold or disposed of by the issuer or bona fide offered to the public prior to the effective date of this subchapter and with respect to a security so sold, disposed of, or offered, shall not apply to any new offering thereof on or after the effective date of this subchapter'' at end of second sentence.

1970—Subsec. (d). Pub. L. 91–547, § 13(a), substituted ''section 4(3) of the Securities Act of 1933'' for ''the third clause of section 4(1) of the Securities Act of 1933'' and struck out the comma before ''if any''.

Subsec. (f). Pub. L. 91–547, § 13(b), added subsec. (f).

1954—Subsec. (d). Act Aug. 10, 1954, § 402, inserted provision making dealer's exemption contained in third clause of section 77d(1) of this title inapplicable to transactions in the securities of investment companies that are offered to the public on a continuous basis, subject to certain exceptions.

Subsec. (e). Act Aug. 10, 1954, § 403, added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–290, title II, § 203(c), Oct. 11, 1996, 110 Stat. 3428, provided that: ''The amendments made by this section [amending this section] shall become effective on the earlier of—

''(1) 1 year after the date of enactment of this Act [Oct. 11, 1996]; or

''(2) the effective date of final rules or regulations issued in accordance with section 24(f) of the Investment Company Act of 1940 [subsec. (f) of this section], as amended by this section.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–547 effective Dec. 14, 1970, see section 30 of Pub. L. 91–547, set out as a note under section 80a–52 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 10, 1954, effective sixty days after Aug. 10, 1954, see note under section 77b of this title.

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–25. Reorganization plans; reports by Commission

(a) Filing of reorganization plan and other information with Commission

Any person who, by use of the mails or any means or instrumentality of interstate commerce or otherwise, solicits or permits the use of his name to solicit any proxy, consent, authorization, power of attorney, ratification, deposit, or dissent in respect of any plan of reorganization of any registered investment company shall file with, or mail to, the Commission for its information, within twenty-four hours after the commencement of any such solicitation, a copy of such plan and any deposit agreement relating thereto and of any proxy, consent, authorization, power of attorney, ratification, instrument of deposit, or instrument of dissent in respect thereto, if or to the extent that such documents shall not already have been filed with the Commission.

(b) Advisory report by Commission at request of shareholders

The Commission is authorized, if so requested, prior to any solicitation of security holders with respect to any plan of reorganization, by any registered investment company which is, or any of the securities of which are, the subject of or is a participant in any such plan, or if so requested by the holders of 25 per centum of any class of its outstanding securities, to render an advisory report in respect of the fairness of any such plan and its effect upon any class or classes of security holders. In such event any registered investment company, in respect of which the Commission shall have rendered any such advisory report, shall mail promptly a copy of such advisory report to all its security holders affected by any such plan: *Provided*, That such advisory report shall have been received by it at least forty-eight hours (not including Sundays and holidays) before final action is taken in relation to such plan at any meeting of security holders called to act in relation thereto, or any adjournment of any such meeting, or if no meeting be called, then prior to the final date of acceptance of such plan by security holders. In respect of securities not registered as to ownership, in lieu of mailing a copy of such advisory report, such registered company shall publish promptly a statement of the existence of such advisory report in a newspaper of general circulation in its principal place of business and shall make available copies of such advisory report upon request. Notwithstanding the provision of this section the Commission shall not render such advisory report although so requested by any such investment company or such security holders if the fairness or feasibility of said plan is in issue in any proceeding pending in any court of competent jurisdiction unless such plan is submitted to the Commission for that purpose by such court.

(c) Enjoinder of plan of reorganization

Any district court of the United States in the State of incorporation of a registered investment company, or any such court for the district in which such company maintains its principal place of business, is authorized to enjoin the consummation of any plan of reorganization of such registered investment company upon proceedings instituted by the Commission (which is authorized so to proceed upon behalf of security holders of such registered company, or any class thereof), if such court shall determine that any such plan is not fair and equitable to all security holders.

(d) Application of section to reorganizations under title 11

Nothing contained in this section shall in any way affect or derogate from the powers of the courts of the United States and the Commission with reference to reorganizations contained in title 11.

(Aug. 22, 1940, ch. 686, title I, §25, 54 Stat. 826; Pub. L. 91–547, §14, Dec. 14, 1970, 84 Stat. 1424; Pub. L. 95–598, title III, §310(c), Nov. 6, 1978, 92 Stat. 2676.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–598 substituted ''title 11'' for ''the Bankruptcy Act of 1898, as amended''.

1970—Subsec. (c). Pub. L. 91–547 substituted ''that any such plan is not fair and equitable to all security holders'' for ''any such plan to be grossly unfair or to constitute gross misconduct or gross abuse of trust on the part of the officers, directors, or investment advisers of such registered company or other sponsors of such plan''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–547 effective Dec. 14, 1970, see section 30 of Pub. L. 91–547, set out as a note under section 80a–52 of this title.

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–26. Unit investment trusts

(a) Custody and sale of securities

No principal underwriter for or depositor of a registered unit investment trust shall sell, except by surrender to the trustee for redemption, any security of which such trust is the issuer (other than short-term paper), unless the trust indenture, agreement of custodianship, or other instrument pursuant to which such security is issued—

(1) designates one or more trustees or custodians, each of which is a bank, and provides that each such trustee or custodian shall have at all times an aggregate capital, surplus, and undivided profits of a specified minimum amount, which shall not be less than $500,000 (but may also provide, if such trustee or custodian publishes reports of condition at least annually, pursuant to law or to the requirements of its supervising or examining authority, that for the purposes of this paragraph the aggregate capital, surplus, and undivided profits of such trustee or custodian shall be deemed to be its aggregate capital, surplus, and undivided profits as set forth in its most recent report of condition so published);

(2) provides, in substance, (A) that during the life of the trust the trustee or custodian, if not otherwise remunerated, may charge against and collect from the income of the trust, and from the corpus thereof if no income is available, such fees for its services and such reimbursement for its expenses as are provided for in such instrument; (B) that no such charge or collection shall be made except for services theretofore performed or expenses theretofore incurred; (C) that no payment to the depositor of or a principal underwriter for such trust, or to any affiliated person or agent of such depositor or underwriter, shall be allowed the trustee or custodian as an expense (except that provision may be made for the payment to any such person of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally per-