

§ 80a-34. Unlawful representations and names**(a) Misrepresentation of guarantees****(1) In general**

It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

(B) has been insured by the Federal Deposit Insurance Corporation; or

(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

(2) Disclosures

Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may, after consultation with and taking into consideration the views of the Federal banking agencies (as defined in section 1813 of title 12), adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

(3) Definitions

The terms “insured depository institution” and “appropriate Federal banking agency” have the same meanings as given in section 1813 of title 12.

(b) Unlawful representation of sponsorship by United States or agency thereof

It shall be unlawful for any person registered under any section of this subchapter, to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that his abilities or qualifications have in any respect been passed upon by the United States or any agency or officer thereof.

(c) Statement of registration under securities provisions

No provision of subsection (a) or (b) shall be construed to prohibit a statement that a person or security is registered under this chapter, the Securities Act of 1933 [15 U.S.C. 77a et seq.], or the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], if such statement is true in fact and if the effect of such registration is not misrepresented.

(d) Deceptive or misleading names

It shall be unlawful for any registered investment company to adopt as a part of the name or title of such company, or of any securities of which it is the issuer, any word or words that the Commission finds are materially deceptive or misleading. The Commission is authorized, by rule, regulation, or order, to define such names or titles as are materially deceptive or misleading.

(Aug. 22, 1940, ch. 686, title I, §35, 54 Stat. 840; Pub. L. 104-290, title II, §208, Oct. 11, 1996, 110 Stat. 3432; Pub. L. 106-102, title II, §214, Nov. 12, 1999, 113 Stat. 1398.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (c), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, 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. (c), is act June 6, 1934, ch. 404, 48 Stat. 881, 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

1999—Subsec. (a). Pub. L. 106-102 inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “It shall be unlawful for any person, in issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company has been guaranteed, sponsored, recommended, or approved by the United States or any agency or officer thereof.”

1996—Subsec. (d). Pub. L. 104-290 inserted heading and amended text generally. Prior to amendment, text read as follows: “It shall be unlawful for any registered investment company hereafter to adopt as a part of the name or title of such company, or of any security of which it is the issuer, any word or words which the Commission finds and by order declares to be deceptive or misleading. The Commission is authorized to bring an action in the proper district court of the United States or United States court of any Territory or other place subject to the jurisdiction of the United States alleging that the name or title of any registered investment company, or of any security which it has issued, is materially deceptive or misleading. If the court finds that the Commission’s allegations in this respect, taking into consideration the history of the investment company and the length of time which it may have used any such name or title, are established, the court shall enjoin such investment company from continuing to use any such name or title.”

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-102 effective 18 months after Nov. 12, 1999, see section 225 of Pub. L. 106-102, set out as a note under section 77c 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-35. Breach of fiduciary duty**(a) Civil actions by Commission; jurisdiction; allegations; injunctive or other relief**

The Commission is authorized to bring an action in the proper district court of the United States, or in the United States court of any territory or other place subject to the jurisdiction of the United States, alleging that a person who is, or at the time of the alleged misconduct was, serving or acting in one or more of the following capacities has engaged within five years of the commencement of the action or is about to engage in any act or practice constituting a breach of fiduciary duty involving personal misconduct in respect of any registered investment