

shall be filed with the Commission not later than five days after such filing or delivery.

(Aug. 22, 1940, ch. 686, title I, § 33, 54 Stat. 839; Pub. L. 91-547, § 19, Dec. 14, 1970, 84 Stat. 1428.)

#### AMENDMENTS

1970—Pub. L. 91-547 inserted provision for party acting in representative capacity and substituted provisions for prompt filing with the Commission of copies of all pleadings, verdicts, judgments, settlements, compromises, or discontinuances served or filed in suits by a registered investment company or a security holder thereof against an officer, director, investment adviser, trustee, or depositor of such company and of copies of motions, transcripts, or other documents if the Commission requests them for prior requirement that registered companies and their affiliated persons who are defendants in derivative suits involving an alleged breach of official duty transmit to the Commission copies of the pleadings and the record in such actions after a settlement or compromise of the action has been approved by a court of competent jurisdiction or a verdict or final judgment on the merits has been rendered, Commission use of information, and nondisclosure of identity of persons.

#### 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-33. Destruction and falsification of reports and records

#### (a) Willful destruction

It shall be unlawful for any person, except as permitted by rule, regulation, or order of the Commission, willfully to destroy, mutilate, or alter any account, book, or other document the preservation of which has been required pursuant to section 80a-30(a) or 80a-31(c) of this title.

#### (b) Untrue statements or omissions

It shall be unlawful for any person to make any untrue statement of a material fact in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to this subchapter or the keeping of which is required pursuant to section 80a-30 (a) of this title. It shall be unlawful for any person so filing, transmitting, or keeping any such document to omit to state therein any fact necessary in order to prevent the statements made therein, in the light of the circumstances under which they were made, from being materially misleading. For the purposes of this subsection, any part of any such document which is signed or certified by an accountant or auditor in his capacity as such shall be deemed to be made, filed, transmitted, or kept by such accountant or auditor, as well as by the person filing, transmitting, or keeping the complete document.

(Aug. 22, 1940, ch. 686, title I, § 34, 54 Stat. 840.)

#### 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-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