plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940 [15 U.S.C. 80a–3(c)(14)], as added by subsection (a) of this section, and any offer, sale, or purchase thereof, shall be exempt from any law of a State that requires registration or qualification of securities.

''(2) TREATMENT OF CHURCH PLANS.—No church plan described in section 414(e) of the Internal Revenue Code of 1986 [26 U.S.C. 414(e)], no person or entity eligible to establish and maintain such a plan under the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.], no company or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940 [15 U.S.C. 80a–3(c)(14)], as added by subsection (a) of this section, and no trustee, director, officer, or employee of or volunteer for any such plan, person, entity, company, or account shall be required to qualify, register, or be subject to regulation as an investment company or as a broker, dealer, investment adviser, or agent under the laws of any State solely because such plan, person, entity, company, or account buys, holds, sells, or trades in securities for its own account or in its capacity as a trustee or administrator of or otherwise on behalf of, or for the account of, or provides investment advice to, for, or on behalf of, any such plan, person, or entity or any company or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940, as added by subsection (a) of this section.''

§ 80a–3a. Protection of philanthropy under State law

(a) Registration requirements

A security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 80a–3(c)(10)(B) of this title, and the offer or sale thereof, shall be exempt from any statute or regulation of a State that requires registration or qualification of securities.

(b) Treatment of charitable organizations

No charitable organization, or any trustee, director, officer, employee, or volunteer of a charitable organization acting within the scope of such person's employment or duties, shall be required to register as, or be subject to regulation as, a dealer, broker, agent, or investment adviser under the securities laws of any State because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of one or more of the following:

(1) a charitable organization;

(2) a fund that is excluded from the definition of an investment company under section 80a–3(c)(10)(B) of this title; or

(3) a trust or other donative instrument described in section 80a–3(c)(10)(B) of this title, or the settlors (or potential settlors) or beneficiaries of any such trusts or other instruments.

(c) State action

Notwithstanding subsections (a) and (b), during the 3-year period beginning on December 8, 1995, a State may enact a statute that specifically refers to this section and provides prospectively that this section shall not preempt the laws of that State referred to in this section.

(d) Definitions

For purposes of this section—

(1) the term ''charitable organization'' means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of title 26;

(2) the term ''security'' has the same meaning as in section 78c of this title; and

(3) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 104–62, § 6, Dec. 8, 1995, 109 Stat. 685.)

CODIFICATION

Section was enacted as part of the Philanthropy Protection Act of 1995, and not as part of the Investment Company Act of 1940 which comprises this subchapter.

EFFECTIVE DATE

Section applicable as defense to any claim in administrative and judicial actions pending on or commenced after Dec. 8, 1995, that any person, security, interest, or participation of type described in Pub. L. 104–62 is subject to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any State statute or regulation preempted as provided in this section, except as specifically provided in such statutes, see section 7 of Pub. L. 104–62, set out as an Effective Date of 1995 Amendment note under section 77c of this title.

§ 80a–4. Classification of investment companies

For the purposes of this subchapter, investment companies are divided into three principal classes, defined as follows:

(1) ''Face-amount certificate company'' means an investment company which is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or which has been engaged in such business and has any such certificate outstanding.

(2) ''Unit investment trust'' means an investment company which (A) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (B) does not have a board of directors, and (C) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities; but does not include a voting trust.

(3) ''Management company'' means any investment company other than a face-amount certificate company or a unit investment trust.

(Aug. 22, 1940, ch. 686, title I, § 4, 54 Stat. 799.)

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.