

eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

§ 80b-10. Disclosure of information by Commission

(a) Information available to public

The information contained in any registration application or report or amendment thereto filed with the Commission pursuant to any provision of this subchapter shall be made available to the public, unless and except insofar as the Commission, by rules and regulations upon its own motion, or by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors. Photostatic or other copies of information contained in documents filed with the Commission under this subchapter and made available to the public shall be furnished to any person at such reasonable charge and under such reasonable limitations as the Commission shall prescribe.

(b) Disclosure of fact of examination or investigation; exceptions

Subject to the provisions of subsections (c) and (d) of section 80b-9 of this title and section 78x(c) of this title, the Commission, or any member, officer, or employee thereof, shall not make public the fact that any examination or investigation under this subchapter is being conducted, or the results of or any facts ascertained during any such examination or investigation; and no member, officer, or employee of the Commission shall disclose to any person other than a member, officer, or employee of the Commission any information obtained as a result of any such examination or investigation except with the approval of the Commission. The provisions of this subsection shall not apply—

(1) in the case of any hearing which is public under the provisions of section 80b-12 of this title; or

(2) in the case of a resolution or request from either House of Congress.

(c) Disclosure by investment adviser of identity of clients

No provision of this subchapter shall be construed to require, or to authorize the Commission to require any investment adviser engaged in rendering investment supervisory services to disclose the identity, investments, or affairs of any client of such investment adviser, except insofar as such disclosure may be necessary or appropriate in a particular proceeding or investigation having as its object the enforcement of a provision or provisions of this subchapter or for purposes of assessment of potential systemic risk.

(Aug. 22, 1940, ch. 686, title II, §210, 54 Stat. 854; Pub. L. 86-750, §13, Sept. 13, 1960, 74 Stat. 887; Pub. L. 101-550, title II, §202(b)(2), Nov. 15, 1990, 104 Stat. 2715; Pub. L. 111-203, title IV, §405, title IX, §929I(c), July 21, 2010, 124 Stat. 1574, 1858; Pub. L. 111-257, §1(c), Oct. 5, 2010, 124 Stat. 2646.)

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-203, §405, inserted “or for purposes of assessment of potential systemic risk” before period at end.

Subsec. (d). Pub. L. 111-257 struck out subsec. (d). Text 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 section 80b-4 of this title, 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 authorizes 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 subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. Collection of information pursuant to section 80b-4 of this title 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(c), added subsec. (d).

1990—Subsec. (b). Pub. L. 101-550 substituted “subsections (c) and (d) of section 80b-9 of this title and section 78x(c) of this title” for “subsections (c) and (e) of section 80b-9 of this title”.

1960—Subsec. (b). Pub. L. 86-750 inserted “, or any member, officer, or employee thereof,” after “the Commission”, and inserted proscription against disclosing information to any person not a member, officer, or employee of the Commission.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 929I(c) of 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.

Amendment by section 405 of Pub. L. 111-203 effective 1 year after July 21, 2010, except that any investment adviser may, at the discretion of the investment adviser, register with the Commission under the Investment Advisers Act of 1940 during that 1-year period, subject to the rules of the Commission, and except as otherwise provided, see section 419 of Pub. L. 111-203, set out as a note under section 80b-2 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.

STUDY ON IMPROVED INVESTOR ACCESS TO INFORMATION ON INVESTMENT ADVISERS AND BROKER-DEALERS

Pub. L. 111-203, title IX, §919B, July 21, 2010, 124 Stat. 1838, provided that:

“(a) STUDY.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [July 21, 2010], the Commission shall complete a study, including recommendations, of ways to improve the access of investors to registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information) about registered and previously registered investment advisers, associated persons of investment advisers, brokers and dealers and their associated persons on the existing Central Registration Depository and Investment Adviser Registration Depository systems, as well as identify additional information that should be made publicly available.

“(2) CONTENTS.—The study required by subsection (a) shall include an analysis of the advantages and

disadvantages of further centralizing access to the information contained in the 2 systems, including—

“(A) identification of those data pertinent to investors; and

“(B) the identification of the method and format for displaying and publishing such data to enhance accessibility by and utility to investors.

“(b) IMPLEMENTATION.—Not later than 18 months after the date of completion of the study required by subsection (a), the Commission shall implement any recommendations of the study.”

[For definitions of terms used in section 919B of Pub. L. 111-203, set out above, see section 5301 of Title 12, Banks and Banking.]

INVESTOR ACCESS TO INFORMATION

Pub. L. 104-290, title III, §306, Oct. 11, 1996, 110 Stat. 3439, required the Securities and Exchange Commission to provide for investor access to information concerning disciplinary actions involving investment advisers, prior to repeal by Pub. L. 109-290, §7(b)(2), Sept. 29, 2006, 120 Stat. 1321.

§ 80b-10a. Consultation

(a) Examination results and other information

(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access—

(A) with respect to the investment advisory activities of any—

(i) bank holding company or savings and loan holding company;

(ii) bank; or

(iii) separately identifiable department or division of a bank,

that is registered under section 80b-3 of this title; and

(B) in the case of a bank holding company or savings and loan holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, with respect to the investment advisory activities of such bank or bank holding company or savings and loan holding company.

(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company or savings and loan holding company, bank, or separately identifiable department or division of a bank, which is registered under section 80b-3 of this title.

(3) Notwithstanding any other provision of law, the Commission and the appropriate Federal banking agencies shall not be compelled to disclose any information provided under paragraph (1) or (2). Nothing in this paragraph shall authorize the Commission or such agencies to withhold information from Congress, or prevent the Commission or such agencies from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States, the Commission, or such agencies. For purposes of section 552 of title 5, this

paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(b) Effect on other authority

Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company or savings and loan holding company (or affiliates or subsidiaries thereof), bank, or subsidiary, department, or division or a bank under any other provision of law.

(c) Definition

For purposes of this section, the term “appropriate Federal banking agency” shall have the same meaning as given in section 1813 of title 12.

(Aug. 22, 1940, ch. 686, title II, §210A, as added Pub. L. 106-102, title II, §220, Nov. 12, 1999, 113 Stat. 1400; Pub. L. 109-351, title IV, §401(b)(2), Oct. 13, 2006, 120 Stat. 1973.)

AMENDMENTS

2006—Subsecs. (a), (b). Pub. L. 109-351 substituted “bank holding company or savings and loan holding company” for “bank holding company” wherever appearing.

EFFECTIVE DATE

Section effective 18 months after Nov. 12, 1999, see section 225 of Pub. L. 106-102, set out as an Effective Date of 1999 Amendment note under section 77c of this title.

§ 80b-11. Rules, regulations, and orders of Commission

(a) Power of Commission

The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon the Commission elsewhere in this subchapter, including rules and regulations defining technical, trade, and other terms used in this subchapter, except that the Commission may not define the term “client” for purposes of paragraphs (1) and (2) of section 80b-6 of this title to include an investor in a private fund managed by an investment adviser, if such private fund has entered into an advisory contract with such adviser. For the purposes of its rules or regulations the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters.

(b) Effective date of regulations

Subject to the provisions of chapter 15 of title 44 and regulations prescribed under the authority thereof, the rules and regulations of the Commission under this subchapter, and amendments thereof, shall be effective upon publication in the manner which the Commission shall prescribe, or upon such later date as may be provided in such rules and regulations.

(c) Orders of Commission after notice and hearing; type of notice

Orders of the Commission under this subchapter shall be issued only after appropriate notice and opportunity for hearing. Notice to