

(2) for a period of sixty days if a vote of stockholders is required to fill the vacancy or vacancies; or

(3) for such longer period as the Commission may prescribe, by rules and regulations upon its own motion or by order upon application, as not inconsistent with the protection of investors.

**(f) Officer, director, etc., of company acting as principal underwriter of security acquired by company**

No registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is an officer, director, member of an advisory board, investment adviser, or employee of such registered company, or is a person (other than a company of the character described in section 80a-12(d)(3)(A) and (B) of this title) of which any such officer, director, member of an advisory board, investment adviser, or employee is an affiliated person, unless in acquiring such security such registered company is itself acting as a principal underwriter for the issuer. The Commission, by rules and regulations upon its own motion or by order upon application, may conditionally or unconditionally exempt any transaction or classes of transactions from any of the provisions of this subsection, if and to the extent that such exemption is consistent with the protection of investors.

**(g) Advisory boards; restrictions on membership**

In the case of a registered investment company which has an advisory board, such board, as a distinct entity, shall be subject to the same restrictions as to its membership as are imposed upon a board of directors by this section.

**(h) Application of section to unincorporated registered management companies**

In the case of a registered management company which is an unincorporated company not having a board of directors, the provisions of this section shall apply as follows:

(1) the provisions of subsection (a), as modified by subsection (e), shall apply to the board of directors of the depositor of such company;

(2) the provisions of subsections (b) and (c), as modified by subsection (e), shall apply to the board of directors of the depositor and of every investment adviser of such company; and

(3) the provisions of subsection (f) shall apply to purchases and other acquisitions for the account of such company of securities a principal underwriter of which is the depositor or an investment adviser of such company, or an affiliated person of such depositor or investment adviser.

(Aug. 22, 1940, ch. 686, title I, §10, 54 Stat. 806; Pub. L. 91-547, §5, Dec. 14, 1970, 84 Stat. 1416; Pub. L. 94-29, §28(5), June 4, 1975, 89 Stat. 165; Pub. L. 106-102, title II, §213(c), Nov. 12, 1999, 113 Stat. 1398; Pub. L. 109-351, title IV, §401(c), Oct. 13, 2006, 120 Stat. 1973.)

**Editorial Notes**

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-351 inserted “or any one savings and loan holding company, together with its affiliates and subsidiaries (as such terms are defined in section 1467a of title 12),” after “1841 of title 12”).

1999—Subsec. (c). Pub. L. 106-102 substituted “bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 1841 of title 12), except” for “bank, except”.

1975—Subsec. (e). Pub. L. 94-29 inserted reference to provisions of section 80a-15(f)(1) of this title.

1970—Subsec. (a). Pub. L. 91-547, §5(a), struck out introductory text “After one year from the effective date of this subchapter” and substituted “interested persons of such registered company” for “investment advisers of, affiliated persons of an investment adviser of, or officers or employees of, such registered company”.

Subsec. (b). Pub. L. 91-547, §5(b)(1), struck out introductory text “After one year from the effective date of this subchapter,” and substituted “No” for “no”.

Subsec. (b)(2). Pub. L. 91-547, §5(b)(2), substituted “interested” for “affiliated” in two places.

Subsec. (c). Pub. L. 91-547, §5(c), struck out introductory text “After the effective date of this subchapter”, substituted “No”, “, except that”, “had a majority”, and “such company” for “no”, “: *Provided*, That”, “shall have had a majority”, and “such company”, respectively, and inserted reference to employees where first appearing.

Subsec. (d). Pub. L. 91-547, §5(d), reenacted provisions except for substitution of “interested persons” for “affiliated persons” in introductory text, deletion of “such investment adviser” before “is engaged” in item (2), and substitution of “class of securities” for “class of stock” and “unit” for “share” in two places in item (8).

**Statutory Notes and Related Subsidiaries**

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.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-29 effective June 4, 1975, see section 31(a) of Pub. L. 94-29, set out as a note under section 78b of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-547, see section 30 (introductory text and pars. (1) and (2)) of Pub. L. 91-547, set out as a note under section 80a-52 of this title.

**Executive Documents**

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-11. Offers to exchange securities**

**(a) Approval by Commission for exchanges of securities on basis other than relative net asset value**

It shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same

or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers which are in effect at the time such offer is made. For the purposes of this section, (A) an offer by a principal underwriter means an offer communicated to holders of securities of a class or series but does not include an offer made by such principal underwriter to an individual investor in the course of a retail business conducted by such principal underwriter, and (B) the net asset value means the net asset value which is in effect for the purpose of determining the price at which the securities, or class or series of securities involved, are offered for sale to the public either (1) at the time of the receipt by the offeror of the acceptance of the offer or (2) at such later times as is specified in the offer.

**(b) Application of section to offers pursuant to plan of reorganization**

The provisions of this section shall not apply to any offer made pursuant to any plan of reorganization, which is submitted to and requires the approval of the holders of at least a majority of the outstanding shares of the class or series to which the security owned by the offeree belongs.

**(c) Application of section to specific exchange offers**

The provisions of subsection (a) shall be applicable, irrespective of the basis of exchange, (1) to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust or registered face-amount certificate company; and (2) to any type of offer of exchange of the securities of registered unit investment trusts or registered face-amount certificate companies for the securities of any other investment company.

(Aug. 22, 1940, ch. 686, title I, §11, 54 Stat. 808; Pub. L. 91-547, §6, Dec. 14, 1970, 84 Stat. 1417.)

**Editorial Notes**

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-547 struck out item (1) designation of existing provisions and item (2) provision for nonapplication of this section to any offer made pursuant to the right of conversion, at the option of the holder, from one class or series into another class or series of securities issued by the same company upon such terms as are specified in the charter, certificate of incorporation, articles of association, by-laws, or trust indenture subject to which the securities to be converted were issued or are to be issued.

**Statutory Notes and Related Subsidiaries**

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.

**Executive Documents**

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-12. Functions and activities of investment companies**

**(a) Purchase of securities on margin; joint trading accounts; short sales of securities; exceptions**

It shall be unlawful for any registered investment company, in contravention of such rules and regulations or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors—

(1) to purchase any security on margin, except such short-term credits as are necessary for the clearance of transactions;

(2) to participate on a joint or a joint and several basis in any trading account in securities, except in connection with an underwriting in which such registered company is a participant; or

(3) to effect a short sale of any security, except in connection with an underwriting in which such registered company is a participant.

**(b) Distribution by investment company of securities of which it is issuer**

It shall be unlawful for any registered open-end company (other than a company complying with the provisions of section 80a-10(d) of this title) to act as a distributor of securities of which it is the issuer, except through an underwriter, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

**(c) Limitations on commitments as underwriter**

It shall be unlawful for any registered diversified company to make any commitment as underwriter, if immediately thereafter the amount of its outstanding underwriting commitments, plus the value of its investments in securities of issuers (other than investment companies) of which it owns more than 10 per centum of the outstanding voting securities, exceeds 25 per centum of the value of its total assets.

**(d) Limitations on acquisition by investment companies of securities of other specific businesses**

(1)(A) It shall be unlawful for any registered investment company (the "acquiring company") and any company or companies controlled by such acquiring company to purchase or otherwise acquire any security issued by any other investment company (the "acquired company"), and for any investment company (the "acquiring company") and any company or companies controlled by such acquiring company to purchase or otherwise acquire any security issued by any registered investment company (the "acquired company"), if the acquiring company and any company or companies controlled by it immediately after such purchase or acquisition own in the aggregate—

(i) more than 3 per centum of the total outstanding voting stock of the acquired company;