

## Section 3 -- Classes of Securities under this Title

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### a. Exempted securities

Except as hereinafter expressly provided, the provisions of this title shall not apply to any of the following classes of securities:

1. Reserved.
2. Any security issued or guaranteed by the United States or any territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or territory, or by any public instrumentality of one or more States or territories, or by any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States; or any certificate of deposit for any of the foregoing; or any security issued or guaranteed by any bank; or any security issued by or representing an interest in or a direct obligation of a Federal Reserve bank; or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term "investment company" under [section 3\(c\)\(3\)](#) of the Investment Company Act of 1940; or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954 [26 USCS § 103(c)(2)]) the interest on which is excludable from gross income under section 103(a)(1) of such Code [26 USCS § 103(a)(1)] if, by reason of the application of paragraph (4) or (6) of section 103(c) of such Code [26 USCS § 103(c)(4) or (6)] (determined as if paragraphs (4)(A), (5), and (7) were not included in such section 103(c)) [26 USCS § 103(c)], paragraph (1) of such section 103(c) [26 USCS § 103(c)(1)] does not apply to such security; or any interest or participation in a single trust fund, or in a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954 [26 USCS § 401], (B) an annuity plan which meets the requirements for the deduction of the employer's contributions under section 404(a)(2) of such Code [26 USCS § 404(a)(2)], (C) a governmental plan as defined in section 414(d) of such Code [26 USCS § 414(d)] which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, or (D) a church 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, other than any plan described in subparagraph (A), (B), (C), or (D) of this paragraph (i) the contributions under which are held in a single trust fund or in a separate account maintained by an insurance company for a single employer and under which an amount in excess of the employer's contribution is allocated to the purchase of securities (other than interests or participations in the trust or separate account itself) issued by the employer or any company directly or indirectly controlling, controlled by, or under common control with the employer, (ii)

which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code [26 USCS § 401(c)(1)], or (iii) which is a plan funded by an annuity contract described in section 403(b) of such Code [26 USCS § 403(b)]. The Commission, by rules and regulations or order, shall exempt from the provisions of [section 5](#) of this title any interest or participation issued in connection with a stock bonus, pension, profit-sharing, or annuity plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 [26 USCS § 401(c)(1)], if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title. For purposes of this paragraph, a security issued or guaranteed by a bank shall not include any interest or participation in any collective trust fund maintained by a bank; and the term "bank" means any national bank, or any banking institution organized under the laws of any State, territory, or the District of Columbia, the business of which is substantially confined to banking and is supervised by the State or territorial banking commission or similar official; except that in the case of a common trust fund or similar fund, or a collective trust fund, the term "bank" has the same meaning as in the Investment Company Act of 1940;

3. Any note, draft, bill of exchange, or banker's acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited;
4. Any security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder, or individual; or any security of a fund that is excluded from the definition of an investment company under [section 3\(c\)\(10\)\(B\)](#) of the Investment Company Act of 1940;
5. Any security issued (A) by a savings and loan association, building and loan association, cooperative bank, homestead association, or similar institution, which is supervised and examined by State or Federal authority having supervision over any such institution; or (B) by (i) a farmer's cooperative organization exempt from tax under section 521 of the Internal Revenue Code of 1954 [26 USCS § 521], (ii) a corporation described in section 501(c)(16) of such Code [26 USCS § 501(c)(16)] and exempt from tax under section 501(a) of such Code [26 USCS § 501(a)], or (iii) a corporation described in section 501(c)(2) of such Code [26 USCS § 501(c)(2)] which is exempt from tax under section 501(a) of such Code [26 USCS § 501(a)] and is organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization or corporation described in clause (i) or (ii);
6. Any interest in a railroad equipment trust. For purposes of this paragraph "interest in a railroad equipment trust" means any interest in an equipment trust, lease, conditional sales contract, or other similar arrangement entered into, issued, assumed, guaranteed by, or for the benefit of, a common carrier to finance the acquisition of rolling stock, including motive power;
7. Certificates issued by a receiver or by a trustee or debtor in possession in a case under title 11 of the United States Code, with the approval of the court;
8. Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the insurance commissioner, bank commissioner, or any agency or officer performing like functions, of any State or Territory of the United States or the District of Columbia;

9. Except with respect to a security exchanged in a case under title 11 of the United States Code, any security exchanged by the issuer with its existing security holders exclusively where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange;
10. Except with respect to a security exchanged in a case under title 11 of the United States Code, any security which is issued in exchange for one or more bona fide outstanding securities, claims or property interests, or partly in such exchange and partly for cash, where the terms and conditions of such issuance and exchange are approved, after a hearing upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear, by any court, or by any official or agency of the United States, or by any State or Territorial banking or insurance commission or other governmental authority expressly authorized by law to grant such approval;
11. Any security which is a part of an issue offered and sold only to persons resident within a single State or Territory, where the issuer of such security is a person resident and doing business within or, if a corporation, incorporated by and doing business within, such State or Territory.
12. Any equity security issued in connection with the acquisition by a holding company of a bank under section 3(a) of the Bank Holding Company Act of 1956 [12 USCS § 1842(a)] or a savings association under section 10(e) of the Home Owners' Loan Act [12 USCS § 1467a(e)], if--
  - A. the acquisition occurs solely as part of a reorganization in which security holders exchange their shares of a bank or savings association for shares of a newly formed holding company with no significant assets other than securities of the bank or savings association and the existing subsidiaries of the bank or savings association;
  - B. the security holders receive, after that reorganization, substantially the same proportional share interests in the holding company as they held in the bank or savings association, except for nominal changes in shareholders' interests resulting from lawful elimination of fractional interests and the exercise of dissenting shareholders' rights under State or Federal law;
  - C. the rights and interests of security holders in the holding company are substantially the same as those in the bank or savings association prior to the transaction, other than as may be required by law; and
  - D. the holding company has substantially the same assets and liabilities, on a consolidated basis, as the bank or savings association had prior to the transaction.

For purposes of this paragraph, the term "savings association" means a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act [12 USCS § 1813(b)]) the deposits of which are insured by the Federal Deposit Insurance Corporation.

13. Any security issued by or any interest or participation in any church plan, company or account that is excluded from the definition of an investment company under [section 3\(c\)\(14\)](#).
14. Any security futures product that is--
  - A. cleared by a clearing agency registered under [section 17A](#) of the Securities Exchange Act of 1934 or exempt from registration under [subsection \(b\)\(7\)](#) of such section 17A; and
  - B. traded on a national securities exchange or a national securities association registered pursuant to [section 15A\(a\)](#) of the Securities Exchange Act of 1934.

b. **Additional exemptions**

The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed therein, add any class of securities to the securities exempted as provided in this section, if it finds that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering; but no issue of securities shall be exempted under this subsection where the aggregate amount at which such issue is offered to the public exceeds \$5,000,000.

c. **Securities issued by small investment company**

The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors.