

Section 5 -- Prohibitions Relating to Interstate Commerce and the Mails

a. **Sale or delivery after sale of unregistered securities**

Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly--

1. to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or
2. to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

b. **Necessity of prospectus meeting requirements of section 10**

It shall be unlawful for any person, directly or indirectly--

1. to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any security with respect to which a registration statement has been filed under this title, unless such prospectus meets the requirements of [section 10](#); or
2. to carry or cause to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless accompanied or preceded by a prospectus that meets the requirements of subsection (a) of section 10.

c. **Necessity of filing registration statement**

It shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under [section 8](#).

Legislative History

May 27, 1933, ch 38, Title I, § 5, 48 Stat. 77; June 6, 1934, ch 404, Title II, § 204, 48 Stat. 906; Aug. 10, 1954, ch 667, Title I, § 7, 68 Stat. 684.

Section 8 -- Registration of Investment Companies

- a. Notification of registration; effective date of registration. Any investment company organized or otherwise created under the laws of the United States or of a State may register for the purposes of this title by filing with the Commission a notification of registration, in such form as the Commission shall by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors. An investment company shall be deemed to be registered upon receipt by the Commission of such notification of registration.
- b. Registration statement; contents. Every registered investment company shall file with the Commission, within such reasonable time after registration as the Commission shall fix by rules and regulations, an original and such copies of a registration statement, in such form and containing such of the following information and documents as the Commission shall by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors:
 1. a recital of the policy of the registrant in respect of each of the following types of activities, such recital consisting in each case of a statement whether the registrant reserves freedom of action to engage in activities of such type, and if such freedom of action is reserved, a statement briefly indicating, insofar as is practicable, the extent to which the registrant intends to engage therein: (A) the classification and subclassifications, as defined in sections 4 and 5 [15 USCS § § 80a-4 and 80a-5], within which the registrant proposes to operate; (B) borrowing money; (C) the issuance of senior securities; (D) engaging in the business of underwriting securities issued by other persons; (E) concentrating investments in a particular industry or group of industries; (F) the purchase and sale of real estate and commodities, or either of them; (G) making loans to other persons; and (H) portfolio turn-over (including a statement showing the aggregate dollar amount of purchases and sales of portfolio securities, other than Government securities, in each of the last three full fiscal years preceding the filing of such registration statement);
 2. a recital of all investment policies of registrant, not enumerated in paragraph (1), which are changeable only if authorized by shareholder vote;
 3. a recital of all policies of the registrant, not enumerated in paragraphs (1) and (2), in respect of matters which the registrant deems matters of fundamental policy;
 4. the name and address of each affiliated person of the registrant; the name and principal address of every company, other than the registrant, of which each such person is an officer, director, or partner; a brief statement of the business experience for the preceding five years of each officer and director of the registrant; and
 5. the information and documents which would be required to be filed in order to register under the Securities Act of 1933 and the Securities Exchange Act of 1934 all securities (other than short-term paper) which the registrant has outstanding or proposes to issue.
- c. Alternative information. The Commission shall make provision, by permissive rules and regulations or order, for the filing of the following, or so much of the following as the Commission may designate, in lieu of the information and documents required pursuant to subsection (b):
 1. copies of the most recent registration statement filed by the registrant under the Securities Act of 1933 and currently effective under such Act, or

- if the registrant has not filed such a statement, copies of a registration statement filed by the registrant under the Securities Exchange Act of 1934, and currently effective under such Act;
2. copies of any reports filed by the registrant pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 [15 USCS § § 78m or 78o(d)]; and
 3. a report containing reasonably current information regarding the matters included in copies filed pursuant to paragraphs (1) and (2), and such further information regarding matters not included in such copies as the Commission is authorized to require under subsection (b).
- d. Registration of unit investment trusts. If the registrant is a unit investment trust substantially all of the assets of which are securities issued by another registered investment company, the Commission is authorized to prescribe for the registrant, by rules and regulations or order, a registration statement which eliminates inappropriate duplication of information contained in the registration statement filed under this section by such other investment company.
 - e. Failure to file registration statement or omissions of material fact. If it appears to the Commission that a registered investment company has failed to file the registration statement required by this section or a report required pursuant to section 30(a) or (b) [15 USCS § 80a-29(a) or (b)], or has filed such a registration statement or report but omitted therefrom material facts required to be stated therein, or has filed such a registration statement or report in violation of section 34(b) [15 USCS § 80a-33(b)], the Commission shall notify such company by registered mail or by certified mail of the failure to file such registration statement or report, or of the respects in which such registration statement or report appears to be materially incomplete or misleading, as the case may be, and shall fix a date (in no event earlier than thirty days after the mailing of such notice) prior to which such company may file such registration statement or report or correct the same. If such registration statement or report is not filed or corrected within the time so fixed by the Commission or any extension thereof, the Commission, after appropriate notice and opportunity for hearing, and upon such conditions and with such exemptions as it deems appropriate for the protection of investors, may by order suspend the registration of such company until such statement or report is filed or corrected, or may by order revoke such registration, if the evidence establishes--
 1. that such company has failed to file a registration statement required by this section or a report required pursuant to section 30(a) or (b) [15 USCS § 80a-29(a) or (b)], or has filed such a registration statement or report but omitted therefrom material facts required to be stated therein, or has filed such a registration statement or report in violation of section 34(b) [15 USCS § 80a-33(b)]; and
 2. that such suspension or revocation is in the public interest.
 - f. Cessation of existence as investment company. Whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect. If necessary for the protection of investors, an order under this subsection may be made upon appropriate conditions. The Commission's denial of any application under this subsection shall be by order.

Legislative History

Aug. 22, 1940, ch 686, Title I, § 8, 54 Stat. 803; June 11, 1960, P.L. 86-507, § 1(14), 74 Stat. 201; Dec. 14, 1970, P.L. 91-547, § 3(c), 84 Stat. 1415.