

Public Law 94-29
94th Congress

An Act

To amend the Securities Exchange Act of 1934 to remove barriers to competition, to foster the development of a national securities market system and a national clearance and settlement system, to make uniform the Securities and Exchange Commission's authority over self-regulatory organizations, to provide for the regulation of brokers, dealers and banks trading in municipal securities, to facilitate the collection and public dissemination of information concerning the holdings of and transactions in securities by institutional investment managers, and for other purposes.

June 4, 1975
[S. 249]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Securities Acts Amendments of 1975".

Securities Acts
Amendments of 1975.

SEC. 2. Section 2 of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended by inserting immediately before the phrase "and to impose requirements necessary to make such regulation and control reasonably complete and effective," the following: "to remove impediments to and perfect the mechanisms of a national market system for securities and a national system for the clearance and settlement of securities transactions and the safeguarding of securities and funds related thereto,".

15 USC 78a note.
Necessity for regulation.

SEC. 3. Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended as follows:

Definitions.

(1) Paragraph (3) of subsection (a) thereof is amended to read as follows:

"(3)(A) The term 'member' when used with respect to a national securities exchange means (i) any natural person permitted to effect transactions on the floor of the exchange without the services of another person acting as broker, (ii) any registered broker or dealer with which such a natural person is associated, (iii) any registered broker or dealer permitted to designate as a representative such a natural person, and (iv) any other registered broker or dealer which agrees to be regulated by such exchange and with respect to which the exchange undertakes to enforce compliance with the provisions of this title, the rules and regulations thereunder, and its own rules. For purposes of sections (b) (1), 6(b) (4), 6(b) (6), 6(b) (7), 6(d), 17(d), 19(d), 19(e), 19(g), 19(h), and 21 of this title, the term 'member' when used with respect to a national securities exchange also means, to the extent of the rules of the exchange specified by the Commission, any person required by the Commission to comply with such rules pursuant to section 6(f) of this title.

Post., pp. 104, 137, 146,
154.

"(B) The term 'member' when used with respect to a registered securities association means any broker or dealer who agrees to be regulated by such association and with respect to whom the association undertakes to enforce compliance with the provisions of this title, the rules and regulations thereunder, and its own rules."

(2) Paragraph (9) thereof is amended to read as follows:

"(9) The term 'person' means a natural person, company, government, or political subdivision, agency, or instrumentality of a government."

(3) Paragraph (12) of subsection (a) thereof is amended to read as follows:

"(12) The term 'exempted security' or 'exempted securities' includes securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or

SEC. 25. The Act entitled “An Act to authorize the Securities and Exchange Commission to delegate certain functions”, approved August 20, 1962 (15 U.S.C. 78d–1(b)), is amended as follows:

(1) The last sentence of subsection (a) of the first section thereof is amended by striking the phrase “any rule, regulation, or order pursuant to section 19(b)” and inserting in lieu thereof “any rule pursuant to section 19(c)”.

(2) Subsection (b) of the first section thereof is amended to read as follows:

“(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, hearing examiner, employee, or employee board, upon its own initiative or upon petition of a party to or intervenor in such action, within such time and in such manner as the Commission, by rule, shall prescribe: *Provided, however,* That the vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review: *And provided further,* That a person or party shall be entitled to review by the Commission if he or it is adversely affected by action at a delegated level which (1) denies any request for action pursuant to section 8(a) or section 8(c) of the Securities Act of 1933 or the first sentence of section 12(d) of the Securities Exchange Act of 1934; (2) suspends trading in a security pursuant to section 12(k) of the Securities Exchange Act of 1934; or (3) is pursuant to any provision of the Securities Exchange Act of 1934 in a case of adjudication, as defined in section 551 of title 5, United States Code, not required by that Act to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a) (1) through (6) of title 5, United States Code.”

Review.

15 USC 77h.
15 USC 78i.

Ante, p. 118.

SEC. Section 9(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78iii(c)) is amended to read as follows:

“(c) INSPECTIONS. – The self-regulatory organization of which a member of SIPC is a member shall inspect or examine such member for compliance with applicable financial responsibility rules, except that if a member of SIPC is a member of more than one self-regulatory organization, the Commission, pursuant to section 17(d) of the 1934 Act, shall designate one of such self-regulatory organizations as responsible for the examination of such member for compliance with applicable financial responsibility rules.”

Ante, p. 137.

SEC. 27. (a) Section 24 of the Securities Act of 1933 (15 U.S.C. 77x) is amended by changing the figure “5,000” to “10,000”.

Penalties.

(b) Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended by changing the phrase “or imprisoned not more than two years” to read “or imprisoned not more than five years”.

(c) Section 29 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-3) is amended by changing the phrase “or imprisoned not more than two years” to read “or imprisoned not more than five years”.

(d) Section 325 of the Trust Indenture Act of 1939 (15 U.S.C. 77yyy) is amended by changing the figure “\$5,000” to “\$10,000”.

(e) Section 49 of the Investment Company Act of 1940 (15 U.S.C. 80a-48) is amended by changing the phrase “or imprisoned not more than two years” to read “or imprisoned not more than five years”.

(f) Section 217 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-17) is amended by changing the phrase “imprisoned not more than two years” to read “imprisoned for not more than five years”.

“(1) for a period of thirty days if the vacancy or vacancies may be filled by action of the board of directors;

“(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.”.

“Investment adviser.”

(6) Section 9 thereof is amended by adding at the end thereof the following new subsection:

15 USC 80a-9.

“(d) For the purposes of subsection (a) through (c) of this section, the term ‘investment adviser’ includes a corporate or other trustee performing the functions of an investment adviser.”.

15 USC 80a-35.

(7) Section 36 thereof is further amended by adding at the end thereof the following new subsection:

“(d) For the purposes of subsections (a) through (c) of this section, the term ‘investment adviser’ includes a corporate or other trustee performing the functions of an investment adviser.”.

15 USC 80b-20.

SEC. 29. The Investment Advisers Act of 1940 (15 U.S.C. 80b) is amended as follows:

Investment adviser, registration.

“(c) (1) An investment adviser, or any person who presently contemplates becoming an investment adviser, may be registered by filing with the Commission an application for registration in such form and containing such of the following information and documents as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors:

15 USA 80b-3.

“(A) the name and form of organization under which the investment adviser engages or intends to engage in business; the name of the State or other sovereign power under which such investment adviser is organized; the location of his or its principal business office and branch offices, if any; the names and addresses of his or its partners, officers, directors, and persons performing similar functions or, if such an investment adviser be an individual, of such individual; and the number of his or its employees;

“(B) the education, the business affiliations for the past ten years, and the present business affiliations of such investment adviser and of his or its partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

“(C) the nature of the business of such investment adviser, including the manner of giving advice and rendering analyses or reports;

“(D) a balance sheet certified by an independent public accountant and other financial statements (which shall, as the Commission specifies, be certified);

“(E) the nature and scope of the authority of such investment adviser with respect to clients’ funds and accounts;

“(F) the basis on bases upon which such investment adviser is compensated;

“(G) whether such investment adviser, or any person associated with such investment adviser, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of such investment adviser under the provisions of subsection (e) of this section; and

“(H) a statement as to whether the principal business of such investment adviser consists or is to consist of acting as invest-

ment adviser and a statement as to whether a substantial part of the business of such investment adviser, consists or is to consist of rendering investment supervisory services.

“(2) Within forty-five days of the date of the filing of such application (or within such longer period as to which the applicant consents) the Commission shall—

“(A) by order grant such registration; or

“(B) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within one hundred twenty days of the date of the filing of the application for registration. At the conclusion of such proceedings the Commission, by order, shall grant or deny such registration. The Commission may extend the time for conclusion of such proceedings for up to ninety days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents.

Notice and hearing.

The Commission shall grant such registration if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (e) of this section.”

Censure or revocation of registration.
15 USC 80b-3.

(2) Subsection (e) of section 203 thereof, is amended to read as follows:

“(e) The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding twelve months, or revoke the registration of any investment adviser if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such investment adviser, or any person associated with such investment adviser, whether prior to or subsequent to becoming so associated—

Notice and hearing.

“(1) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

“(2) has been convicted within ten years preceding the filing of any application for registration or at any time thereafter of any felony or misdemeanor which the Commission finds—

“(A) involves the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense;

“(B) arises out of the conduct of the business of a broker, dealer, municipal securities dealer, investment adviser, bank, insurance company, or fiduciary;

“(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; or

“(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code.

18 USC 471 *et seq.*,
1001 *et seq.*

“(3) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting

as an investment adviser, underwriter, broker, dealer, or municipal securities dealer, or as an affiliated person or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

15 USC 77a, 78a, 80a-51.

“(4) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, this title, or the rules or regulations under any such statutes or any rule of the Municipal Securities Rulemaking Board, or is unable to comply with any such provision.

“(5) has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or has failed reasonably to supervise, with a view to preventing violations of the provisions of such statutes, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph (5) no person shall be deemed to have failed reasonably to supervise any person, if—

“(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

“(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

“(6) is subject to an order of the Commission entered pursuant to subsection (f) of this section barring or suspending the right of such person to be associated with an investment adviser which order is in effect with respect to such person.”.

Censure or limitation.
15 USC 80b-3.

(3) Subsection (f) of section 203 thereof is amended to read as follows:

Notice and hearing.

“(f) The Commission, by order, shall censure or place limitations on the activities of any person associated or seeking to become associated with an investment adviser, or suspend for a period not exceeding twelve months or bar any such person from being associated with an investment adviser, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in paragraph (1), (4), or (5) of subsection (e) of this section or has been convicted of any offense specified in paragraph (2) of said subsection (e) within ten years of the commencement of the proceedings under this subsection, or is enjoined from any action, conduct, or practice specified in paragraph (3) of said subsection (e). It shall be unlawful for any person as to whom such an order suspending or barring him from being associated with an investment adviser is in effect willfully to become, or to be, associated with an investment adviser without the consent of the Commission, and it shall be unlawful for any investment adviser to permit such a person to become, or remain, a person associated with him without the consent of the Commission, if such investment adviser knew, or in the exercise of reasonable care, should have known, of such order.”.

(4) Section 203 thereof is further amended by striking out subsection (g) thereof and redesignating subsections (h) and (i) thereof as subsections (g) and (h), respectively.

15 USC 80b-3.

(5) Section 204 thereof is amended to read as follows:

“SEC. 204. Every investment adviser who makes use of the mails or of any means or instrumentality of interstate commerce in connection with his or its business as an investment adviser (other than one specifically exempted from registration pursuant to section 203(b) of this title), shall make and keep for prescribed periods such records (as defined in section 3(a)(37) of the Securities Exchange Act of 1934), furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. All records (as so defined) of such investment advisers are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest or for the protection of investors.”

Use of mails or instrumentality of interstate commerce, recordkeeping requirements. 15 USC 80b-4. *Ante*, p. 97.

SEC. 30. Section 4 of the Securities Act of 1933 (15 U.S.C. 77(d)) is amended by adding at the end thereof the following new paragraph:

Domestic security transactions, exemptions.

“(5)(A) Transactions involving offers or sales of one or more promissory notes directly secured by a first lien on a single parcel of real estate upon which is located a dwelling or other residential or commercial structure, and participation interests in such notes—

“(i) where such securities are originated by a savings and loan association, savings bank, commercial bank, or similar banking institution which is supervised and examined by a Federal or State authority, and are offered and sold subject to the following conditions:

“(a) the minimum aggregate sales price per purchaser shall not be less than \$250,000;

“(b) the purchaser shall pay cash either at the time of the sale or within sixty days thereof; and

“(c) each purchaser shall buy for his own account only; or

“(ii) where such securities are originated by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to sections 203 and 211 of the National Housing Act and are offered or sold subject to the three conditions specified in subparagraph (A) (i) to any institution described in such subparagraph or to any insurance company subject to the supervision of the insurance commissioner, or any agency or officer performing like function, of any State or territory of the United States or the District of Columbia, or the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association.

12 USC 1709, 1715b.

“(B) Transactions between any of the entities described in subparagraph (A)(i) or (A)(ii) hereof involving non-assignable contracts to buy or sell the foregoing securities which are to be completed within two years, where the seller of the foregoing securities pursuant to any such contract is one of the parties described in subparagraph (A)(i) or (A)(ii) who may originate such securities and the purchaser of such securities pursuant to any such contract is any institution described in subparagraph (A)(i) or any insurance company described in subparagraph (A)(ii), the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, or the Government National Mortgage Association and where the foregoing securities are subject to the three conditions for sale set forth in subparagraphs (A) (i) (a) through (c).

“(C) The exemption provided by subparagraphs (A) and (B) hereof shall not apply to resales of the securities acquired pursuant thereto, unless each of the conditions for sale contained in subparagraphs (A)(1) (a) through (c) are satisfied.”

Effective date.
15 USC 78b note.

Ante, pp. 97, 104, 111,
121, 127, 131, 141,
146.
Ante, p. 162.

SEC. 31. (a) This Act shall become effective on the date of its enactment except as hereinafter provided. The amendments made by this Act to sections 3(a)(12), 6(a) through (d), 11A(b), 15(a), 15A, 15B(a), 17A(b) and (c), and 19(g) of the Securities Exchange Act of 1934 shall become effective one hundred eighty days after the date of enactment of this Act, and the amendments made by this Act to section 31 of the Securities Exchange Act of 1934 shall become effective on January 1, 1976. Neither the provisions of section 3(a)(3), 6(b)(2), or 6(c)(1) of the Securities Exchange Act of 1934 (as amended by this Act) nor any rule or regulation thereunder shall apply so as to deprive any person of membership in any national securities exchange (or its successor) of which such person was, on the date of enactment of this Act, a member or a member firm as defined in the constitution of such exchange, or so as to deny membership in any such exchange (or its successor) to any natural person who is or becomes associated with such member or member firm.

15 USC 78f note.

(b) If it appears to the Commission at any time within one year of the effective date of any amendment made by this Act to the Securities Exchange Act of 1934 that the organization or rules of any national securities exchange or registered securities association registered with the Commission on the date of enactment of this Act do not comply with such Act as amended, the Commission shall so notify such exchange or association in writing, specifying the respects in which the exchange or association is not in compliance with such Act. On and after the one hundred eightieth day following the date of receipt of such notice by a national securities exchange or registered securities association, the Commission, without regard to the provisions of section 19(h) of the Securities Exchange Act of 1934, as amended by this Act, is authorized by order, to suspend the registration of any such exchange or association or impose limitations on the activities, functions, and operations of any such exchange or association, if the Commission finds, after notice and opportunity for hearing, that the organization or rules of such exchange or association do not comply with such Act. Any such suspension or limitation shall continue in effect until the Commission, by order, declares that such exchange or association is in compliance with such requirements.

Ante, p. 146.

Approved June 4, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 94-123 accompanying H.R. 4111 (Comm. on Interstate and Foreign Commerce) and No. 94-229 (Comm. of Conference).

SENATE REPORT No. 94-75 (Comm. on Banking, Housing and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 121 (1975):

Apr. 17, considered and passed Senate.

Apr. 24, considered and passed House, amended, in lieu of H.R. 4111.

May 20, Senate agreed to conference report.

May 22, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 11, No. 23:

June 5, Presidential statement.

SECURITIES REFORM ACT OF 1975

APRIL 7, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

R E P O R T
together with
MINORITY VIEWS

[To accompany H. R. 4111]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 4111) to amend the Securities Exchange Act of 1934 to remove barriers to competition, to foster the development of a national securities market system and a national clearance and settlement system, to make uniform the Securities and Exchange Commission's authority over securities industry regulatory organizations, and for other purposes, having considered the same, report favorable thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Securities Reform Act of 1975".

TITLE I—REGULATION OF EXCHANGES AND ASSOCIATIONS

SEC. 101. (a) Section 3(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(3)) is amended to read as follows

"(3) The term 'member' when used with respect to a national securities exchange or national securities association means any person who agrees to be regulated by an exchange or association and with respect to whom the exchange or association undertakes to enforce compliance with its rules and with the provisions of this title, and any amendment thereto and any rule or regulation made or to be made thereunder."

(b) Section 3(a)(21) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (a)(21)) is amended to read as follows:

"(21) The term 'person associated with a member' with respect to a member of a national securities exchange or national securities association means any partner, officer, director, or branch manager of such member (or any person

is amended by changing the phrase “or imprisoned not more than two years” to read: “or imprisoned not more than five years”.

(c) Section 29 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-3) is amended by changing the phrase “or imprisoned not more than two years” to read “or imprisoned not more than five years”.

(d) Section 325 of the Trust Indenture Act of 1939 (15 U.S.C. 77yyy) is amended by changing the figure “\$5,000” to “\$10,000”.

(e) Section 49 of the Investment Company Act of 1940 (15 U.S.C. 80a-48) is amended by changing the phrase “or imprisoned not more than two years” to read “or imprisoned not more than five years”.

(f) Section 217 of the Investment Advisers Act of 1940 (15 U.S.C. 10b-17) is amended by changing the phrase “imprisoned for not more than two years” to read “imprisoned for not more than five years”.

SEC. 404. Section 203(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended to read as follows:

“(c) Any investment adviser, or any person who presently contemplates becoming an investment adviser, may register under this section by filing with the Commission an application for registration. Such application shall contain such of the following information, in such form and detail, as the Commission may by rule and [sic] regulations prescribe as necessary or appropriate in the public interest or for the protection of investors:

“(1) information in respect of—

“(A) the name and form of organization under which the investment adviser engages or intends to engage in business; the name of the State or other sovereign power under which such investment adviser is organized; the location of his or its principal business office and branch offices, if any; the names and addresses of his or its partners, officers, directors, and persons performing similar functions or, if such an investment adviser be an individual, of such individual; and the number of his or its employees;

“(B) the education, the business affiliations for the past ten years, and the present business affiliations of such investment adviser and of his or its partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

“(C) the nature of the business of such investment adviser, including the manner of giving advice and rendering analyses or reports;

“(D) the nature and scope of the authority of such investment adviser with respect to clients’ funds and accounts;

“(E) the basis or bases upon which such investment adviser is compensated; and

“(F) whether such investment adviser, or any person associated with such investment adviser, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of such investment adviser under the provisions of subsection (e); and

“(2) a statement as to whether the principal business of such investment adviser consists or is to consist of acting as investment adviser and a statement as to whether a substantial part of the business of such investment adviser consists or is to consist of rendering investment supervisory services.

“(3) within 45 days of the filing of such application or any amendment to such application the Commission shall—

“(A) by order grant such registration if the Commission finds that the requirements of this section are satisfied, or

“(B) institute appropriate administrative action to determine whether the application should be denied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, the Commission shall by order deny such registration. The Commission shall conclude administrative action and issue an order granting or denying the application within one hundred and twenty days of the filing of such application, unless the Commission finds good cause for extending the period, in which case the Commission may extend such period for an additional ninety days.”

SEC. 405. Section 203(e)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(2)) is amended to read as follows:

“(2) has been convicted within ten years preceding the filing of the application or any time thereafter of the crime of armed robbery or grand

larceny or of any felony or misdemeanor which the Commission finds (A) involves the purchase or sale of any security, (B) arises out of the conduct of the business of a broker, dealer, or investment adviser, (C) involves embezzlement, fraudulent conversion, or misappropriation of funds or securities, or (D) involves the violation of section 1341, 1342, or 1343 of title 18, United States Code; or”

SEC. 406. Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended to read as follows:

“SEC. 204. Every investment adviser who makes use of the mails or of any means or instrumentality of interstate commerce in connection with his or its business as an investment adviser (other than one specifically exempted from registration pursuant to section 203(b) shall make, keep, and preserve for such periods, such accounts, correspondence, memorandums, papers, books, and other records and furnish copies thereof, and make such reports (which may include certified financial statements) available to clients or to the Commission as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest or for the protection of investors. Such accounts, correspondence, memorandums, papers, books, and other records shall be subject at any time or from time to time to such reasonable periodic, special, or other examinations by examiners or other representatives of the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors.”

SEC. 407. The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end thereof the following new section:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 35. There are hereby authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed \$54,000,000 for the fiscal year ending June 30, 1976, not to exceed \$62,600,000 for the fiscal year ending September 30, 1977, and not to exceed \$71,200,000 for the fiscal year ending September 30, 1978. For fiscal years succeeding the 1978 fiscal year, there may be appropriated such sums as the Congress may hereafter authorize by law.”

SEC. 408. (a) The Investment Company Act of 1940 (15 U.S.C. 80a) is amended as follows:

(a) Section 15 thereof is amended by adding at the end thereof the following new subsection:

“(f)(1) An investment adviser or a corporate trustee performing the functions of an investment adviser of a registered investment company or an affiliated person of such investment adviser or corporate trustee may receive any amount or benefit in connection with a sale of securities of, or a sale of any other interest in, an investment adviser or a corporate trustee performing the functions of an investment adviser which results in an assignment of an investment advisory contract with such company or the change in control of or identity of a corporate trustee which performs the functions of an investment adviser, if—

“(A) for a period of three years after the time of such action, at least 75 per centum of the members of the board of directors of such registered company or such corporate trustee (or successor thereto, by reorganization or otherwise) are not (i) interested persons of the investment adviser of such company or such corporate trustee, or (ii) interested persons of the predecessor investment adviser or such corporate trustee; and

“(B) there is not imposed an unfair burden on such company as a result of such transaction or any express or implied terms, conditions, or understanding applicable thereto.

“(2) (A) For the purpose of paragraph (1) (A) of this subsection, interested persons of a corporate trustee shall be determined in accordance with section 2(a)(19)(B), except that no person shall be deemed to be an interested person of a corporate trustee solely by reason of (i) his being a member of its board of directors or advisory board or (ii) his membership in the immediate family of any person specified in clause (i) of this subparagraph.

“(B) For the purpose of paragraph (1)(B) of this subsection, an unfair burden on a registered investment company includes any arrangements, during the two-year period after the date on which any such transaction occurs, whereby the investment adviser or corporate trustee or predecessor or successor investment advisers or corporate trustee or any interested person of any such adviser

lation of those statutes. The section does not change existing law which requires that all criminal actions under the Federal securities laws be brought in the name of the United States by the Attorney General.

CONFORMING AMENDMENTS

Sections 404, 405, and 406 amend various provisions of the Investment Advisers Act of 1940 to conform those provisions to similar provisions in the Securities Exchange Act which are amended by this bill.

Thus, Section 404 amends Section 203(c) of the Investment Advisers Act to conform the procedure for the registration of investment advisers to procedure for the registration of brokers and dealers set forth in Section 303 of this bill.

Section 405 amends Section 203(e)(2) of the Investment Advisers Act to add the crimes of armed robbery and grand larceny to those crimes which statutorily prohibit a person from registering as an investment adviser.

Finally, Section 406 amends Section 204 of the Investment Advisers Act to make uniform the requirement that investment advisers, like brokers and dealers, make, keep and furnish copies of certain records and reports.

AUTHORIZATION OF APPROPRIATIONS

Section 407 adds a new Section 35 to the Securities Exchange Act authorizing SEC appropriations for the 1976 through 1978 fiscal years as follows:

Fiscal year:	<i>Millions</i>
1976 -----	\$54.0
1977 -----	62.6
1978 -----	71.2

The workload of the Securities and Exchange Commission has increased tremendously over the years. The tables in the appendix of this report graphically demonstrate this increase. For example, in 1941 only 260 million shares of stock were traded on the Nation's securities exchanges; by 1971 trading had grown to 4.86 billion shares. This represented an increase in dollar volume from \$5.9 billion in 1941 to \$152.8 billion in 1971.

In 1941 there were 2,350 companies reporting under the Securities Exchange Act; by 1971 that amount had grown to 9,572. The number of reports filed under the Securities Exchange Act in 1941 totaled 4,940; by 1971 filed reports had increased to 32,472. Notwithstanding these tremendous increases, the size of the Commission staff actually declined in numbers from 1941 to 1971, going from 1,711 to 1,410.

In 1972 the Commission established an Advisory Committee on Enforcement Policy and Practices. The Advisory Committee concluded that the Commission should establish a goal of doubling the size of its total staff over the next five years. That goal appears reasonable to your Committee, and the authorizations limits in this section, while expressed in terms of maximum limitations, are set at levels sufficient to permit attainment of that objective.

damages or other relief shall be granted against any person other than the recipient of such compensation or payments. No award of damages shall be recoverable for any period prior to one year before the action was instituted. Any award of damages against such recipient shall be limited to the actual damages resulting from the breach of fiduciary duty and shall in no event exceed the amount of compensation or payments received from such investment company, or the security holders thereof, by such recipient.

(4) This subsection shall not apply to compensation or payments made in connection with transactions subject to section 17 of this title, or rules, regulations [sic], or orders thereunder, or to sales loans for the acquisition of any security issued by a registered investment company.

(5) Any action pursuant to this subsection may be brought only in an appropriate district court of the United States.

(6) No finding by a court with respect to a breach of fiduciary duty under this subsection shall be made a basis (A) for a finding of a violation of this title for the purposes of sections 9 and 49 of this title, section 15 of the Securities Exchange Act of 1934, or section 203 of title II of this Act, or (B) for an injunction to prohibit any person from serving in any of the capacities enumerated in subsection (a) of this section.

(c) For the purposes of subsections (a) and (b) of this section, the term "investment adviser" includes a corporate or other trustee performing the functions of an investment adviser.

* * * * *

PENALTIES

SEC. 49. any person who willfully violates any provision of this title or of any rule, regulation, or order hereunder, or any person who willfully in any registration statement, application, report, account, record, or other document filed or transmitted pursuant to this title or the keeping of what is required pursuant to section 31 (a) makes any untrue statement of a material fact or omits to state any material fact necessary in order to prevent the statements made therein from being materially misleading in the light of the circumstances under which they were made, shall upon conviction be fined not more than \$10,000 or imprisoned not more than [two] *five* years, or both; but no person shall be convicted under this section for the violation of any rule, regulation, or order if he proves that he had no actual knowledge of such rule, regulation, or order.

INVESTMENT ADVISERS ACT OF 1940

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REGISTRATION OF INVESTMENT ADVISERS

SEC. 203. (a) * * *

* * * * *

(c) Any investment adviser, or any person who presently contemplates becoming an investment adviser, may register under this section by filing with the Commission an application for registration.

Such application shall contain such of the following information, in such form and detail, as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors:

(1) information in respect of—

(A) the name and form of organization under which the investment adviser engages or intends to engage in business; the name of the State or other sovereign power under which such investment adviser is organized; the location of his or its principal business office and branch offices, if any; the names and addresses of his or its partners, officers, directors, and persons performing similar functions or, if such an investment adviser be an individual, of such individual; and the number of his or its employees;

(B) the education, the business affiliations for the past ten years, and the present business affiliations of such investment adviser and of his or its partners, officers, directors, and persons performing similar functions and of any controlling person thereof;

(C) the nature of the business of such investment adviser, including the manner of giving advice and rendering analyses or reports;

(D) the nature and scope of the authority of such investment adviser with respect to clients' funds and accounts;

(E) the basis or bases upon which such investment adviser is compensated; and

(F) whether such investment adviser, or any person associated with such investment adviser, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of such investment adviser under the provisions of subsection (e); and

(2) a statement as to whether the principal business of such investment adviser consists or is to consist of acting as investment adviser and a statement as to whether a substantial part of the business of such investment adviser consists or is to consist of rendering investment supervisory services.

(3) *within 45 days of the filing of such application or any amendments to such application the Commission shall—*

(A) by order grant such registration if the Commission finds that the requirements of this section are satisfied, or

(B) institute appropriate administrative action to determine whether the application should be denied. If, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this section is not satisfied, the Commission shall by order deny such registration, The Commission shall conclude administrative action and issue an order granting or denying the application within one hundred and twenty days of the filing of such application, unless the Commission finds good cause for extending the period, in which case the Commission may extend such period for an additional 90 days.

[Except as hereinafter provided, such registration shall become effective thirty days after receipt of such application by the Commission, or within such shorter period of time as the Commission may determine. Any amendment of an application filed not more than fifteen days after the filing of such application shall be deemed to have been filed with and as part of such application. Any amendment of an application filed more than fifteen days after the filing of such application and before such applications becomes effective shall be deemed a new application incorporating by reference the unamended items of the earlier application. Any amendment filed after the application has become effective shall become effective thirty days after the filing thereof, or at such earlier date as the Commission may order.]

* * * * *

(e) The Commission shall, after appropriate notice and opportunity for hearing, by order censure, deny registration to, or suspend for a period not exceeding twelve months, or revoke the registration of, an investment adviser, if it finds that such censure, denial, suspension, or revocation is in the public interest and that such investment adviser or any person associated with such investment adviser, whether prior to or subsequent to becoming such—

* * * * *

(2) has been convicted within ten years preceding the filing of the application or at any time thereafter *the crime of armed robbery or grand larceny or of any felony or misdemeanor which the Commission finds (A) involves the purchase or sale of any security, (B) arises out of the conduct of the business of a broker, dealer, or investment adviser, (c) involves embezzlement, fraudulent conversion, or misappropriation of funds or securities, or (D) involves the violation of section 1341, 1342, or 1343 of title 18, United States Code; or*

* * * * *

SEC. 204. Every investment adviser who makes use of the mails or of any means or instrumentality of interstate commerce in connection with his or its business as an investment adviser (other than one specifically exempted from registration pursuant to section 203(b)), shall make, keep, and preserve for such periods, such accounts, correspondence, memorandums, papers, books, and other records *and furnish copies thereof*, and make such reports[,] (*which may include certified financial statements*) available to clients or to the Commission as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest or for the protection of investors. Such accounts, correspondence, memorandums, papers, books, and other records shall be subject at any time or from time to time to such reasonable periodic, special, or other examinations by examiners or other representatives of the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors.

* * * * *

SEC. 217. Any person who willfully violates any provision of this title, or any rule, regulation, or order promulgated by the Commission under authority thereof, shall, upon conviction, be fined not more than \$10,000, imprisoned for not more than [two] *five* years, or both.

SECURITIES ACTS AMENDMENTS OF 1975

MAY 19, 1975.— Ordered to be printed

Mr. STAGGERS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 249]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 249) to amend the Securities Exchange Act of 1934, and for other purposes, having met, and after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Securities Acts Amendments of 1975".

SEC. 2. Section 2 of the Securities Exchange Act of 1934 (U.S.C. 78b) is amended by inserting immediately before the phrase "and to impose requirements necessary to make such regulation and control reasonably complete and effective," the following: "to remove impediments to and perfect the mechanisms of a national market system for securities and a national system for the clearance and settlement of securities transactions and the safeguarding of securities and funds related thereto,".

SEC. 3. Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended as follows:

(1) Paragraph (3) of subsection (a) thereof is amended to read as follows:

"(3) (A) The term 'member' when used with respect to a national securities exchange means (i) any natural person permitted to effect transactions on the floor of the exchange without the services of another person acting as broker, (ii) any registered broker or dealer with which such a natural person is associated, (iii) any registered broker

DISCLOSURE BY INSTITUTIONAL INVESTORS

The Senate bill and the House amendment contained provisions requiring institutional investment managers which exercised investment discretion over accounts holding certain levels of specified securities to make periodic public disclosures of significant portfolio holdings and transactions. For jurisdictional purposes, the Senate bill used as a point of reference equity securities of a class described in section 13 (d) (1) of the Exchange Act. The House amendment computed the jurisdictional level with reference to equity securities. The House receded to the Senate.

The Senate bill authorized the Commission to determine the frequency of reports required to be filed by institutional investment managers who satisfied the jurisdictional tests, but stated explicitly that the Commission could not require reports less frequently than annually, or more frequently than quarterly. The House amendment contained no qualifications on the Commission's authority to prescribe the frequency of reports. The House receded to the Senate.

The Senate bill contained an exception to the reporting requirements insofar as investment discretion is exercised outside the United States with respect to accounts held outside the United States, unless otherwise provided by the Commission. The House amendment contained no such exception. The Senate receded to the house with the understanding that the Commission could exercise its exemptive power to accomplish the same results if this is determined to be consistent with the purposes of this section.

MISCELLANEOUS

1. Uniform criminal penalties under the Federal Securities Laws

The House amendment contained provisions to make uniform the criminal penalties which may be imposed for violation of the six statutes administered by the Commission. The Senate bill contained no comparable provisions. The Senate receded to the House.

2. Registration provisions of the Investment Advisers Act of 1940

Various provisions of the Investment Advisers Act of 1940 were amended by the House amendment to conform those provisions to similar provisions in the Exchange Act, as amended. No comparable provisions are contained in the Senate bill. The Senate receded to the House.

3. Annual reports

The House amendment required the Commission to include in its annual reports to Congress information detailing the Commission's administration of the Freedom of Information Act, in addition to information concerning the effects its rules and regulations are having on the viability of small brokers and dealers, its attempts to reduce any unnecessary reporting burden on such brokers and dealers, and its efforts to help to assure the continued participation of small brokers and dealers in the United States securities markets. The Senate bill contained no comparable provisions. The Senate receded to the House.