

SEC. 3. Section 12 of such Act is hereby amended by striking out "Comptroller of the Currency" and inserting in lieu thereof "Director of the Bureau of Federal Credit Unions".

Approved August 10, 1954.

Public Law 577

CHAPTER 667

AN ACT

To amend certain provisions of the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, the Trust Indenture Act of 1939, and the Investment Company Act of 1940.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO SECURITIES ACT OF 1933, AS AMENDED

SECTION. 1. Paragraph (3) of section 2 of the Securities Act of 1933 is amended to read as follows:

"(3) The term 'sale' or 'sell' shall include every contract of sale or disposition of a security or interest in a security, for value. The term 'offer to sell', 'offer for sale', or 'offer' shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. The terms defined in this paragraph and the term 'offer to buy' as used in subsection (c) of section 5 shall not include preliminary negotiations or agreements between an issuer (or any person directly or indirectly controlling or controlled by an issuer, or under direct or indirect common control with an issuer) and any underwriter or among underwriters who are or are to be in privity of contract with an issuer (or any person directly or indirectly controlling or controlled by an issuer, or under direct or indirect common control with an issuer). Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been offered and sold for value. The issue or transfer of a right of privilege, when originally issued or transferred with a security, giving the holder of such security the right to convert such security into another security of the same issuer or of another person, or giving a right to subscribe to another security of the same issuer or of another person, which right cannot be exercised until some future date, shall not be deemed to be an offer or sale of such other security; but the issue or transfer of such other security upon the exercise of such right of conversion or subscription shall be deemed a sale of such other security."

SEC. 2 Paragraph (8) of section 2 of the Securities Act of 1933 is amended to read as follows:

"(8) The term 'registration statement' means the statement provided for in section 6, and includes any amendment thereto an any report, document, or memorandum filed as part of such statement or incorporated therein by reference."

SEC. 3. Paragraph (10) of section 2 of the Securities Act of 1933, as amended, is amended to read as follows:

"(10) The term 'prospectus' means any prospectus, notice circular, advertisement, letter, or communication, written or by radio or television, which offers any security for sale or confirms the sale of any security; except that (a) a communication sent or given after the effective date of the registration statement (other than a prospectus

“SECURITIES NOT REGISTERED UNDER SECURITIES ACT

SEC. 306. (a) In the case of any security which is not registered under the Securities Act of 1933 and to which this subsection is applicable, notwithstanding the provisions of section 304, unless such security has been or is to be issued under an indenture and an application for qualification is effective as to such indenture, 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) In the case of any security which is not registered under the Securities Act of 1933, but which has been or is to be issued under an indenture as to which an application for qualification is effective, 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 such security, unless such prospectus, to the extent the Commission may prescribe by rules and regulations as necessary and appropriate in the public interest or for the protection of investors, includes or is accompanied by a written statement that contains the information specified in subsection (c) of section 305; or

“(2) to carry out or to 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, to the extent the Commission may prescribe by rules and regulations as necessary or appropriate in the public interest or for the protection of investors, accompanied or preceded by a written statement that contains the information specified in subsection (c) of section 305.

“(c) 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 through the use or medium of any prospectus or otherwise any security which is not registered under the Securities Act of 1933 and to which this subsection is applicable notwithstanding the provisions of section 304, unless such security has been or is to be issued under an indenture and an application for qualification has been filed as to such indenture, or while the application is the subject of a refusal order or stop order or (prior to qualification) any public proceeding or examination under section 307(c).”

SEC. 305 Section 324 of the Trust Indenture Act of 1939 is amended by deleting the words “issuing or selling” and inserting in lieu thereof the words “offering, selling, or issuing”.

TITLE IV—AMENDMENTS TO INVESTMENT COMPANY ACT OF 1940

SEC. 401. Section 2 (a) (30) of the Investment Company Act of 1940 is amended to read as follows:

“(30) ‘Prospectus’, as used in section 22, means a written prospectus intended to meet the requirements of section 10 (a) of the Securities Act of 1933 and currently in use. As used elsewhere, ‘prospectus’ means a prospectus as defined in the Securities Act of 1933.”

SEC. 402. Subsection (d) of section 24 of the Investment Company Act of 1940 is amended by adding the following at the end thereof:

“The exemption provided by the third clause of section 4 (1) of the Securities Act of 1933, as amended, shall not apply to any transaction in a security issued by a face-amount certificate company or in a redeemable security issued by an open-end management company or unit investment trust, if any other security of the same class is currently being offered or sold by the issuer or by or through an underwriter in a distribution which is not exempted from section 5 of said Act, except to such extent and subject to such terms and conditions as the Commission, having due regard for the public interest and the protection of investors, may prescribe by rules or regulations with respect to any class of persons, securities, or transactions.”

SEC. 403. Section 24 of the Investment Company Act of 1940 is amended by adding at the end thereof a new subsection (e) as follows:

“(e) (1) A registration statement under the Securities Act of 1933 relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust may be amended after its effective date so as to increase the securities specified therein as proposed to be offered. At the time of filing such amendment there shall be paid to the Commission a fee, calculated in the manner specified in section 6 (b) of said Act, with respect to the additional securities therein proposed to be offered.

“(2) The filing of such an amendment to a registration statement under the Securities Act of 1933 shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under paragraph (1) of this subsection.

“(3) For the purposes of section 11 of the Securities Act of 1933, as amended, the effective date of the latest amendment filed pursuant to this subsection or otherwise shall be deemed the effective date of the registration statement with respect to securities sold after such amendment shall have become effective. For the purposes of section 13 of the Securities Act of 1933, as amended, no such security shall be deemed to have been bona fide offered to the public prior to the effective date of the latest amendment filed pursuant to this subsection. Except to the extent the Commission otherwise provides by rules or regulations as appropriate in the public interest or for the protection of investors, no prospectus relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust which varies for the purposes of subsection (a) (3) of section 10 of the Securities Act of 1933 from the latest prospectus filed as a part of the registration statement shall be deemed to meet the requirements of said section 10 unless filed as part of an amendment to the registration statement under said Act and such amendment has become effective.”

TITLE V—EFFECTIVE DATE

SEC. 501. This Act shall take effect sixty days after the date of its enactment.
Approved August 10, 1954.

83D CONGRESS
2d Session

SENATE

REPORT
No. 1036

SECURITIES EXCHANGE ACTS
AMENDMENTS

R E P O R T

FROM THE

COMMITTEE ON BANKING AND
CURRENCY

TO ACCOMPANY

S. 2846

A BILL TO AMEND CERTAIN PROVISIONS OF THE
SECURITIES ACT OF 1933, AS AMENDED; THE
SECURITIES EXCHANGE ACT OF 1934, AS
AMENDED; THE TRUST INDENTURE ACT OF 1939;
AND THE INVESTMENT COMPANY ACT OF 1940

FEBRUARY 26, (legislative day, FEBRUARY 25), 1954.—Ordered to be printed

UNITED STATES

GOVERNMENT PRINTING OFFICE

WASHINGTON : 1954

42006

The amendment provides no change in the substantive requirements of the statute as to the contents of indentures or in the necessity of qualifying indentures with the Commission.

Section 304. Nonregistered securities

Section 304 of the bill amends section 306 of the Trust Indenture Act in certain respects. Section 306 of the Trust Indenture Act relates to indentures for debt securities which must be qualified under the Trust Indenture Act even though the securities to be issued under such indentures are exempt from registration under the Securities Act. As to such indentures, section 306 follows, in general, the theory of section 5 of the Securities Act. Section 304 of the bill amends section 306 of the act to conform to the changes being made in section 5 of the Securities Act. Section 306 of the act is also amended to conform to the change made in section 305 of the act, that is, to provide flexibility with respect to the analysis of indenture provisions in the prospectus.

Section 305. Unlawful representations

Section 305 of the bill inserts the word “offering” in section 324 of the Trust Indenture Act, relating to unlawful representations, in order to insure that the application of that section is not altered by the change in the definition of the term “sale” in the Securities Act.

TITLE IV—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

Section 401. Definition of prospectus

Section 401 of the bill makes a formal amendment to section 2 (a) (30) of the Investment Company Act so that the term “prospectus” therein will retain its present meaning in the light of the changes made in sections 5 (b) and 10 of the Securities Act of 1933.

Section 402. Investment company prospectuses

Section 24 (d) of the Investment Company Act now contains certain provisions that modify provisions of the Securities Act of 1933 insofar as they apply to investment companies because of various peculiar characteristics of such companies. Section 402 of the bill adds to section 24 (d) of the act a provision making the dealer’s exemption contained in the third clause of section 4 (1) of the Securities Act inapplicable to transactions in the securities of investment companies that are offered to the public on a continuous basis, subject to certain conditions. The effect of the amendment is to provide for mandatory use of prospectuses by dealers over a longer period than will be required under section 4 (1) of the Securities Act as modified by section 7 of the bill.

Under existing law, a dealer who is not a participant in the distribution need not use a prospectus in connection with a transaction in a security after the expiration of 1 year from the first date on which the security was bona fide offered to the public, which, in most cases, means approximately 1 year after the effective date of the registration statement. Section 402 of the bill changes this requirement as to the securities of these investment companies by providing that a dealer must use the prospectus as long as the issuer is offering any securities of the same class as the security which is the subject matter of the dealer’s transaction.

The continuous offering practices of these investment companies justifies a requirement that all dealers be compelled to use the statutory prospectus so long as shares of the same class are being offered. Your committee has been informed that it is the practice of investment companies and their underwriters to make copies of the required prospectuses readily available to all dealers who request them. To provide for unforeseen problems, section 402 of the bill authorizes the Commission to adopt appropriate rules with due regard to the public interest and the protection of investors.

Section 403. Amendment of Securities Act registration statement

Section 403 adds a new subsection (e) to section 24 of the act which will afford to those investment companies engaged in continuous offerings (i.e., unit investment trusts, face-amount certificate companies, and open-end management companies) the alternatives of registering additional securities under the Securities Act of 1933 either by filing a new registration statement or, by virtue of this new section 24 (e), by filing an appropriate amendment, at intervals of approximately 1 year, to the latest effective registration statement under the Securities Act of 1933 for securities of the same class.

The expression "certified bank check" appearing in paragraph (2) of the proposed section 24 (e) of the act is the precise term employed in section 6 (c) of the Securities Act of 1933. In the administration of the Securities Act, certified checks and cashier's checks are accepted as meeting the requirements of section 6 (c).

Paragraph (3) of this new section 24 (e), by appropriate reference to section 10 of the Securities Act, will require that current information be made a part of the registration statement at approximately yearly intervals. It is not the intent of this paragraph, however, that every change made in a prospectus will involve the filing of such changed prospectus as part of the registration statement. It is intended that only those revised prospectuses which reflect a periodic general revision, to bring up to date the latest prospectus contained in the registration statement, or other important change must be filed as a part of the registration statement. Rule-making power, therefore, has been included in this paragraph to provide appropriate administrative flexibility in meeting this problem which is not covered by rule 424 under the Securities Act in its present form.

Paragraph (3) also contains references to sections 11 and 13 of the Securities Act so that there will be no departure from either the disclosure standards or the liabilities imposed upon sellers. Thus, under the new section 24 (e) of the Investment Company Act, the registration statement under the Securities Act of 1933 of an issuer referred to in this subsection must meet the standards of section 11 of the Securities Act not only on the original effective date but also on the effective date of each posteffective amendment to such registration statement, and the periods of limitation on actions provided in section 13 of the Securities Act start anew with respect to securities sold thereafter each time such registration statement is effectively amended either to increase the number or amount of securities registered or to make the above-mentioned revisions of the prospectus a part of the registration statement.

SEC. 306. (a) In the case of any security which is not registered under the Securities Act of 1933 and to which this subsection is applicable, notwithstanding the provisions of section 304, unless such security has been or is to be issued under an indenture and an application for qualification is effective as to such indenture, 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) In the case of any security which is not registered under the Securities Act of 1933, but which has been or is to be issued under an indenture as to which an application for qualification is effective, 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 such security, unless such prospectus, *to the extent the Commission may prescribe by rules and regulations as necessary and appropriate in the public interest or for the protection of investors*, includes or is accompanied by a written statement that *contains the information specified in [meets the requirements of] subsection (c) of section 305*; or

“(2) to carry or to 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, *to the extent the Commission may prescribe by rules and regulations as necessary or appropriate in the public interest or for the protection of investors*, accompanied or preceded by a written statement that [meets the requirements of] *contains the information specified in subsection (c) of section 305*.

“(c) *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 through the use or medium of any prospectus or otherwise any security which is not registered under the Securities Act of 1933 and to which this subsection is applicable notwithstanding the provisions of section 304, unless such security has been or is to be issued under an indenture and an application for qualification has been filed as to such indenture, or while the application is the subject of a refusal order or stop order or (prior to qualification) any public proceeding or examination under section 307(c).*”

* * * * *

SEC. 324. It shall be unlawful for any person in [issuing or selling] *offering, selling, or issuing* any security to represent or imply in any manner whatsoever that any action or failure to act by the Commission in the administering of this title means that the Commission has in any way passed upon the merits of, or given approval to, any trustee, indenture or security, or any transaction or transactions therein, or that any such action or failure to act with regard to any statement or report filed with or examined by the Commission pursuant to this title or any rule, regulation, or order thereunder, has the effect of a finding by the Commission that such statement or report is true and accurate on its face or that it is not false or misleading.

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INVESTMENT COMPANY ACT OF 1940

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SEC. 2. (a) When used in this title, unless the context otherwise requires—

* * * * *

“(30) ‘Prospectus’, as used in section 22, means a written prospectus intended to meet the requirements of section [5 (b)] *10 (a)* of the Securities Act of 1933 and currently in use. As used elsewhere, ‘prospectus’ means a prospectus as defined in the Securities Act of 1933.”

* * * * *

SEC. 24. * * *

* * * * *

(d) The exemption provided by paragraph (8) of section 3 (a) of the Securities Act of 1933 shall not apply to any security of which an investment company is the issuer. The exemption provided by paragraph (11) of said section 3 (a) shall not apply to any security of which a registered investment company is the issuer, except a security sold or disposed of by the issuer or bona fide offered to the public prior to the effective date of this title, and with respect to a security so sold, disposed of, or offered, shall not apply to any new offering thereof on or after the effective date of this title. *The exemption provided by the third clause of section 4 (1) of the Securities Act of 1933, as amended, shall not apply to any transaction in a security issued by a face-amount certificate company or in a redeemable security issued by an open-end management company or unit investment trust, if any other security of the same class is currently being offered or sold by the issuer or by or through an underwriter in a distribution which is not exempted from section 5 of said Act, except to such extent and subject to such terms and conditions as the Commission, having due regard for the public interest and the protection of investors, may prescribe by rules or regulations with respect to any class of persons, securities, or transactions.*"

(e) (1) *A registration statement under the Securities Act of 1933 relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust may be amended after its effective date so as to increase the securities specified therein as proposed to be offered. At the time of filing such amendment there shall be paid to the Commission a fee, calculated in the manner specified in section 6 (b) of said Act, with respect to the additional securities therein proposed to be offered.*

(2) *The filing of such an amendment to a registration statement under the Securities Act of 1933 shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under paragraph (1) of this subsection.*

(3) *For the purposes of section 11 of the Securities Act of 1933, as amended, the effective date of the latest amendment filed pursuant to this subsection or otherwise shall be deemed the effective date of the registration statement with respect to securities sold after such amendment shall have become effective. For the purposes of section 13 of the Securities Act of 1933, as amended, no such security shall be deemed to have been bona fide offered to the public prior to the effective date of the latest amendment filed pursuant to this subsection. Except to the extent the Commission otherwise provides by rules or regulations as appropriate in the public interest or for the protection of investors, no prospectus relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust which varies for the purposes of subsection (a) (3) of section 10 of the Securities Act of 1933 from the latest prospectus filed as a part of the registration statement shall be deemed to meet the requirements of said section 10 unless filed as part of an amendment to the registration statement under said Act and such amendment has become effective.*

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AMENDING CERTAIN PROVISIONS OF THE SECURITIES ACT OF 1933, THE SECURITIES
EXCHANGE ACT OF 1934, THE TRUST INDENTURE ACT OF 1939, AND THE
INVESTMENT COMPANY ACT OF 1940

APRIL 23, 1954.—Committed to the Committee of the Whole House on the State of the Union and ordered to
be printed

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

R E P O R T

[To accompany S. 2846]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 2846) to amend certain provisions of the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, the Trust Indenture Act of 1939, and the Investment Company Act of 1940, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

COMMITTEE AMENDMENTS

The amendments made by the committee are as follows:

Page 4, strike out lines 17 to 20, inclusive.

Page 4, line 21, strike out "7" and insert "6".

Page 4, strike out lines 23 and 24.

Page 5, line 22, strike out "8" and insert "7".

Page 5, after line 23, insert:

"PROHIBITIONS RELATING TO INTERSTATE COMMERCE AND THE MAILS

Page 5, line 24, after the quotation marks, insert "SEC. 5."

Page 7, line 9, strike out "9" and insert "8".

Page 7, after line 10, insert:

"INFORMATION REQUIRED IN PROSPECTUS

Page 7, line 11, after the quotation marks, insert "SEC. 10."

Page 10, line 20, strike out "10" and insert "9".

Page 10, line 23, strike out "11" and insert "10".

H. Rept. 1542. 83—2—1

Section 304. Nonregistered securities

Section 304 of the bill amends section 306 of the Trust Indenture Act in certain respects. Section 306 of the Trust Indenture Act relates to indentures for debt securities which must be qualified under the Trust Indenture Act even though the securities to be issued under such indentures are exempt from registration under the Securities Act. As to such indentures, section 306, follows, in general, the theory of section 5 of the Securities Act. Thus to conform section 306 of the act to the changes being made in section 5 of the Securities Act, section 304 of the bill amends section 306 of the act to permit the making of offers after the filing of the application for qualification of the indenture. Section 304 of the bill does not permit, however, the making of sales, contracts of sale, or contracts to sell prior to the effective date of the application for qualification. To conform section 306 to the changes being made in section 305 of the act, section 304 of the bill amends section 306 of the act to authorize the Commission to prescribe by rule and regulation the extent to which summaries of indenture provisions must be used in the sale of securities not registered under the Securities Act but with respect to which an application for qualification of the indenture must be filed under the Trust Indenture Act.

Section 305. Unlawful representations

Section 324 of the Trust Indenture Act makes it unlawful to represent or imply in “issuing” or “selling” a security that the SEC has approved the security, the indenture, the trustee, any transaction, or passed upon the truth and accuracy of any statement or report filed with the SEC. In view of the distinction which section 1 of the bill makes between “offers” and “sales,” section 305 of the bill adds the word “offering” to section 324 of the act to continue the existing scope of the prohibition in that section.

TITLE IV—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

Section 401. Definition of prospectus

Section 22 of the Investment Company Act (as modified by the first sentence of sec. 2 (a) (3) of the act) uses the term “prospectus” to refer to the full prospectus meeting the requirements of section 10 of the Securities Act of 1933. Under section 9 of the bill such “section 10 prospectus” becomes a “section 10 (a) prospectus.” Thus, to prevent any change in existing law under section 22, section 401 of the bill amends the first sentence of section 2 (a) (30) of the Investment Company Act to refer to a prospectus intended to meet the requirements of section 10 (a) of the Securities Act. Section 2 (a) (3) of the Investment Company Act as here in effect refers to a section 10 prospectus indirectly by making a direct reference to section 5 (b) of the Securities Act which in turn refers expressly to section 10. For purposes of clarify and simplification, section 401 of the bill refers directly to section 10 (a) of the Securities Act.

Section 402. Investment company prospectuses

Section 24 (d) of the Investment Company Act now contains certain provisions that modify provisions of the Securities Act of 1933 insofar as they apply to investment companies because of various peculiar characteristics of such companies. Section 402 of the bill adds to section 24 (d) of the act a provision making the dealer’s exemption

contained in the third clause of section 4 (1) of the Securities Act inapplicable to transactions in the securities of investment companies that are offered to the public on a continuous basis, subject to certain conditions. The effect of the amendment is to provide for mandatory use of prospectuses by dealers over a longer period than will be required under section 4 (1) of the Securities Act as modified by section 7 of the bill.

Under existing law, a dealer who is not a participant in the distribution need not use a prospectus in connection with a transaction in a security after the expiration of 1 year from the first date on which the security was bona fide offered to the public, which, in most cases, means approximately 1 year after the effective date of the registration statement. Section 402 of the bill changes this requirement as to the securities of these investment companies by providing that a dealer must use the prospectus as long as the issuer is offering any securities of the same class as the security which is the subject matter of the dealer's transaction.

The continuous offering practices of these investment companies justifies a requirement that all dealers be compelled to use the statutory prospectus so long as shares of the same class are being offered. Your committee has been informed that it is the practice of investment companies and their underwriters to make copies of the required prospectuses readily available to all dealers who request them. To provide for unforeseen problems, section 402 of the bill authorizes the Commission to adopt appropriate rules with due regard to the public interest and the protection of investors.

Section 403. Amendment of Securities Act registration statement

Section 403 adds a new subsection (e) to section 24 of the act which will afford to those investment companies engaged in continuous offerings (i.e., unit investment trusts, face-amount certificate companies, and open-end management companies) the alternatives of registering additional securities under the Securities Act of 1933 either by filing a new registration statement or, by virtue of this new section 24 (e), by filing an appropriate amendment, at intervals of approximately 1 year, to the latest effective registration statement under the Securities Act of 1933 for securities of the same class.

The expression "certified bank check" appearing in paragraph (2) of the proposed section 24 (e) of the act is the precise term employed in section 6 (c) of the Securities Act of 1933. In the administration of the Securities Act, certified checks and cashier's checks are accepted as meeting the requirements of section 6 (c).

Paragraph (3) of this new section 24 (e), by appropriate reference to section 10 of the Securities Act, will require that current information be made a part of the registration statement at approximately yearly intervals. It is not the intent of this paragraph, however, that every change made in a prospectus will involve the filing of such changed prospectus as part of the registration statement. It is intended that only those revised prospectuses which reflect a periodic general revision, to bring up to date the latest prospectus contained in the registration statement, or other important change must be filed as a part of the registration statement. Rulemaking power, therefore, has been included in this paragraph to provide appropriate administrative flexibility in meeting this problem which is not covered by rule 424 under the Securities Act in its present form.

Paragraph (3) also contains references to sections 11 and 13 of the Securities Act so that there will be no departure from either the disclosure standards or the liabilities imposed upon sellers. Thus, under the new section 24 (e) of the Investment Company Act, the registration statement under the Securities Act of 1933 of an issuer referred to in this subsection must meet the standards of section 11 of the Securities Act not only on the original effective date but also on the effective date of each posteffective amendment to such registration statement, and the periods of limitation on actions provided in section 13 of the Securities Act start anew with respect to securities sold thereafter each time such registration statement is effectively amended either to increase the number or amount of securities registered or to make the above-mentioned revisions of the prospectus a part of the registration statement.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as passed by the Senate, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECURITIES ACT OF 1933, AS AMENDED

* * * * * * *

SEC. 2. When used in this title, unless the context otherwise requires—

* * * * * * *

“(3) The term “sale” [.] or “sell” [, “offer to sell”, or “offer for sale”] shall include every contract of sale or disposition of [, attempt or offer to dispose of, or solicitation of an offer to buy,] a security or interest in a security, for value. *The term “offer to sell”, “offer for sale”, or “offer” shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value.* [; except that such] *The terms defined in this paragraph and the term “offer to buy” as used in subsection (c) of section 5 shall not include preliminary negotiations or agreements between an issuer (or any person directly or indirectly controlling or controlled by an issuer, or under direct or indirect common control with an issuer) and any underwriter or among underwriters who are or are to be in privity of contract with an issuer (or any person directly or indirectly controlling or controlled by an issuer, or under direct or indirect common control with an issuer).* Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been *offered and* sold for value. The issue or transfer of a right of privilege, when originally issued or transferred with a security, giving the holder of such security the right to convert such security into another security of the same issuer or of another person, or giving a right to subscribe to another security of the same issuer or of another person, which right cannot be exercised until some future date, shall not be deemed to be [a] *an offer or* sale of such other security; but the issue or transfer of such other security upon the exercise of such right of conversion or subscription shall be deemed a sale of such other security.

* * * * * * *

(8) The term “registration statement” means the statement provided for in section 6, and includes any amendment thereto an any report, document, or memorandum [accompanying] *filed as part of* such statement or incorporated therein by reference.

* * * * * * *

(10) The term “prospectus” means any prospectus, notice, circular, advertisement, letter, or communication, written or by radio *or television*, which offers any security for sale *or confirms the sale of any security*; except that (a) a communication *sent or given after the effective date of the registration statement (other than a prospectus permitted under subsection (b) of section (10))* shall not be

(2) to carry out or to 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, *to the extent the Commission may prescribe by rules and regulations as necessary or appropriate in the public interest or for the protection of investors*, accompanied or preceded by a written statement that [meets the requirements of] *contains the information specified in subsection (c) of section 305.*

(c) 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 through the use or medium of any prospectus or otherwise any security which is not registered under the Securities Act of 1933 and to which this subsection is applicable notwithstanding the provisions of section 304, unless such security has been or is to be issued under an indenture and an application for qualification has been filed as to such indenture, or while the application is the subject of a refusal order or stop order or (prior to qualification) any public proceeding or examination under section 307(c)

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SEC. 324. It shall be unlawful for any person in [issuing or selling] *offering, selling, or issuing* any security to represent or imply in any manner whatsoever that any action or failure to act by the Commission in the administration of this title means that the Commission has in any way passed upon the merits of, or given approval to, any trustee, indenture or security, or any transaction or transactions therein, or that any such action or failure to act with regard to any statement or report filed with or examined by the Commission pursuant to this title or any rule, regulation, or order thereunder, has the effect of a finding by the Commission that such statement or report is true and accurate on its face or that it is not false or misleading.

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INVESTMENT COMPANY ACT OF 1940

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SEC. 2. (a) When used in this title, unless the context otherwise requires—

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“(30) ‘Prospectus’, as used in section 22, means a written prospectus intended to meet the requirements of section [5 (b)] 10 (a) of the Securities Act of 1933 and currently in use. As used elsewhere, ‘prospectus’ means a prospectus as defined in the Securities Act of 1933.”

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SEC. 24. * * *

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(d) The exemption provided by paragraph (8) of section 3 (a) of the Securities Act of 1933 shall not apply to any security of which an investment company is the issuer. The exemption provided by paragraph (11) of said section 3 (a) shall not apply to any security of which a registered investment company is the issuer, except a security sold or disposed of by the issuer or bona fide offered to the public prior to the effective date of this title, and with respect to a security so sold, disposed of, or offered, shall not apply to any new offering thereof on or after the effective date of this title. *The exemption provided by the third clause of section 4 (1) of the Securities Act of 1933, as amended, shall not apply to any transaction in a security issued by a face-amount certificate company or in a redeemable security issued by an open-end management company or unit investment trust, if any other security of the same class if currently being offered or sold by the issuer or by or through an underwriter in a distribution which is not exempted from section 5 of said Act, except to such extent and subject to such terms and conditions as the Commission, having due regard for the public interest and the protection of investors, may prescribe by rules or regulations with respect to any class of persons, securities, or transactions.*”

(e) (1) A registration statement under the Securities Act of 1933 relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust may be amended after its effective date so as to increase the securities specified therein as proposed to be offered. At the time of filing such amendment there shall be paid to the Commission a fee, calculated in the manner specified in section 6 (b) of said Act, with respect to the additional securities therein proposed to be offered.

(2) The filing of such an amendment to a registration statement under the Securities Act of 1933 shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under paragraph (1) of this subsection.

(3) For the purposes of section 11 of the Securities Act of 1933, as amended, the effective date of the latest amendment filed pursuant to this subsection or otherwise shall be deemed the effective date of the registration statement with respect to securities sold after such amendment shall have become effective. For the purposes of section 13 of the Securities Act of 1933, as amended, no such security shall be deemed to have been bona fide offered to the public prior to the effective date of the latest amendment filed pursuant to this subsection. Except to the extent the Commission otherwise provides by rules or regulations as appropriate in the public interest or for the protection of investors, no prospectus relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust which varies for the purposes of subsection (a) (3) of section 10 of the Securities Act of 1933 from the latest prospectus filed as a part of the registration statement shall be deemed to meet the requirements of said section 10 unless filed as part of an amendment to the registration statement under said Act and such amendment has become effective.”

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