

§ 200.2

17 CFR Ch. II (4-1-10 Edition)

(b) Enforcement of disclosure requirements in the soliciting of proxies for meetings of security holders by companies whose securities are registered pursuant to section 12 of the Securities Exchange Act of 1934, public utility holding companies, and their subsidiaries and investment companies.

(c) Regulation of the trading in securities on national securities exchanges and in the over-the-counter markets.

(d) Investigation of securities frauds, manipulations, and other violations, and the imposition and enforcement of legal sanctions therefor.

(e) Registration, and the regulation of certain activities, of brokers, dealers and investment advisers.

(f) Supervision of the activities of mutual funds and other investment companies.

(g) Administration of statutory standards governing protective and other provisions of trust indentures under which debt securities are sold to the public.

(h) Regulation of the purchase and sale of securities, utility properties, and other assets by registered public utility holding companies and their electric and gas utility subsidiaries; enforcement of statutory standards for public utility holding company system simplification and integration; and approval of their reorganization, mergers and consolidations.

(i) Protection of the interests of public investors involved in bankruptcy reorganization cases and in bankruptcy cases involving the adjustment of debts of a municipality.

(j) Administrative sanctions, injunctive remedies, civil money penalties and criminal prosecution. There are also private rights of action for investors injured by violations of the Acts.

(15 U.S.C. 78d-1, 78d-2; 11 U.S.C. 901, 1109(a))

[27 FR 12712, Dec. 22, 1962, as amended at 43 FR 13375, Mar. 30, 1978; 49 FR 12684, Mar. 30, 1984; 60 FR 14623, Mar. 20, 1995; 60 FR 32794, June 23, 1995]

§ 200.2 Statutory functions.

Following are brief descriptions of the Commission's functions under each of the statutes it administers:

(a) *Securities Act of 1933*. (1) Issuers of securities making public offerings for

sale in interstate commerce or through the mails, directly or by others on their behalf, are required to file with the Commission registration statements containing financial and other pertinent data about the issuer and the offering. A similar requirement is provided with respect to such public offerings on behalf of a controlling person of the issuer. Unless a registration statement is in effect with respect to such securities, it is unlawful to sell the securities in interstate commerce or through the mails. (There are certain limited exemptions, such as government securities, non-public offerings, and intrastate offerings.) The effectiveness of a registration statement may be refused or suspended after a hearing if the statement contains material misstatements or omissions, thus barring sale of the securities until it is appropriately amended. Registration is not a finding by the Commission as to the accuracy of the facts disclosed; and it is unlawful so to represent. Moreover, registration of securities does not imply approval of the issue by the Commission or insure investors against loss in their purchase, but serves rather to provide information upon which investors may make an informed and realistic evaluation of the worth of the securities.

(2) Persons responsible for filing false information with the Commission subject themselves to the risk of fine or imprisonment or both; and the issuing company, its directors, officers, and the underwriters and dealers and others may be liable in damages to purchasers of registered securities if the disclosures in the registration statements and prospectus are materially defective. Also the statute contains antifraud provisions which apply generally to the sale of securities, whether or not registered.

(b) *Securities Exchange Act of 1934*. This Act requires the filing of registration applications and annual and other reports with national securities exchanges and the Commission, by companies whose securities are listed on the exchanges. Annual and other reports must be filed also by certain companies whose securities are traded on the over-the-counter markets. These must contain financial and other

data prescribed by the Commission for the information of investors. Material misstatements or omissions are grounds for suspension or withdrawal of the security from exchange trading. This Act makes unlawful any solicitation of proxies, authorizations, or consents in contravention of Commission rules. These rules require disclosure of information about the subject of the solicitation to security holders. The Act requires disclosure of the holdings and the transactions by an officer, director, or beneficial owner of over 10 percent of any class of equity security of certain companies. It also requires disclosure of the beneficial owners of more than five percent of any class of equity securities of a registered company. It provides substantive and procedural protection to security holders in third-party and issuer tender offers. The Act also provides for the registration with, and regulation by, the Commission of national securities exchanges, brokers or dealers engaged in an over-the-counter securities business, and national associations of such brokers or dealers. It gives the Commission rulemaking power with respect to short sales, stabilizing, floor trading activities of specialists and odd-lot dealers, and such matters as excessive trading by exchange members. The Act authorizes the Board of Governors of the Federal Reserve System to prescribe minimum margin requirements for listed securities.

(c) *Public Utility Holding Company Act of 1935.* This Act authorizes the Commission to regulate gas and electric public-utility holding companies under standards prescribed for the protection of the public interest and the interest of investors and consumers. The Act generally limits a public-utility holding company to a single integrated public-utility system, and requires simple corporate and capital structures. If not exempt, a public-utility holding company must register with the Commission. Generally, a registered holding company must obtain Commission approval before it can issue and sell securities, acquire utility securities or assets or any other interest in any business, or enter into transactions with its affiliates. It must also comply with extensive reporting and

record-keeping requirements. Although largely free of these requirements, an exempt holding company remains subject to the geographic limitations of the Act. The Act permits the acquisition of interests in "exempt wholesale generators" and "foreign utility companies" unrelated to a system's utility operations.

(d) *Trust Indenture Act of 1939.* This Act safeguards the interests of purchasers of publicly-offered debt securities issued under trust indentures by requiring the inclusion of certain protective provisions in, and the exclusion of certain types of exculpatory clauses from, trust indentures. The Act also requires that an independent indenture trustee represent the debtors by proscribing certain relationships that could conflict with proper exercise of duties.

(e) *Investment Company Act of 1940.* This Act establishes a comprehensive regulatory framework for investment companies and subjects their activities to regulation under standards prescribed for the protection of investors. Among other things, the Act provides for the registration of investment companies with the Commission; requires them to disclose their financial condition and investment policies to their shareholders; prohibits them from substantially changing investment policies without shareholder approval; bars persons guilty of securities fraud from serving as officers or directors; prevents underwriters, investment bankers, or brokers from constituting more than a minority of the directors of an investment company; requires that management contracts be submitted to shareholders for their approval; prohibits transactions between investment companies and their directors, officers, or affiliated companies or persons, except when approved by the Commission; and prohibits investment companies from issuing senior securities except under specified terms and conditions. The Act also regulates advisory fees, sales and repurchases of securities, exchange offers, and other activities of investment companies. The Act authorizes the Commission to exempt any person or class of persons or securities from any provisions of, or rules

§ 200.10

under, the Act and to conduct any investigation it deems necessary to determine existing or potential violations of the Act. It also authorizes the Commission to prepare reports to security holders on the fairness of plans of reorganization, merger, or consolidation. The Commission may institute a court action to enjoin acts or practices of management involving, among other things, a breach of fiduciary duty and the consummation of plans of reorganization, merger, or consolidation that are grossly unfair to security holders.

(f) *Investment Advisers Act of 1940*. Persons who, for compensation, engage in the business of advising others with respect to their security transactions must register with the Commission. Their activities in the conduct of such business are subject to standards of the act which make unlawful those practices which constitute fraud or deceit and which require, among other things, disclosure of any interests they may have in transactions executed for clients. The Act grants to the Commission rule-making power with respect to fraudulent and other activities of investment advisers.

(g) *Chapter 11 of the Bankruptcy Code*. Chapter 11 of the Bankruptcy Code (11 U.S.C. 1101 *et seq.*) provides for Commission participation as a statutory party in reorganization cases. Under section 1109(a) of the Bankruptcy Code (11 U.S.C. 1109(a)), which also applies to Chapter 9 cases regarding municipalities, the Commission "may raise and may appear and be heard on any issue in the case."

(11 U.S.C. 901, 1109(a))

[27 FR 12712, Dec. 22, 1962, as amended at 49 FR 12684, Mar. 30, 1984; 60 FR 14624, Mar. 20, 1995]

GENERAL ORGANIZATION

§ 200.10 The Commission.

The Commission is composed of five members, not more than three of whom may be members of the same political party. The members are appointed by the President, with the advice and consent of the Senate, for 5-year terms, one term ending each year. The Chairman is designated by the President pursuant to the provisions of section 3 of Reorganization Plan No. 10 of 1950 (3

17 CFR Ch. II (4-1-10 Edition)

CFR, 1949-1953 Comp., p. 1006). The Commission is assisted by a staff, which includes lawyers, accountants, engineers, financial security analysts, investigators and examiners, as well as administrative and clerical employees.

§ 200.11 Headquarters Office—Regional Office relationships.

(a)(1) Division and Office Heads in the Headquarters Office (100 F Street, NE., Washington, DC 20549) have Commission-wide responsibility to the Commission for the overall development, policy and technical guidance, and policy direction of the operating programs under their jurisdiction.

(2) Each Regional Director is responsible for the direction and supervision of his or her work force and for the execution of all programs in his or her office's region as shown in paragraph (b) of this section, in accordance with established policy, and reports, on enforcement matters, to the Deputy Director of the Division of Enforcement who is responsible for Regional Office enforcement matters and, on examination matters, to the Director of the Office of Compliance Inspections and Examinations. The Director of Regional Office Operations interacts with the Regional Directors and their staff on operational and administrative/management issues and serves as their representative in the Commission's Washington Headquarters in those areas.

(b) Regional Directors of the Commission.

Atlanta Regional Office: Alabama, Georgia, North Carolina, South Carolina, and Tennessee—Regional Director, 3475 Lenox Road, NE., Suite 1000, Atlanta, GA 30326-1232.

Boston Regional Office: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont—Regional Director, 33 Arch Street, 23rd Floor, Boston, MA 02110-1424.

Chicago Regional Office: Kentucky, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin—Regional Director, 175 West Jackson Boulevard, Suite 900, Chicago, IL 60604-2908.

Denver Regional Office: Colorado, Kansas, Nebraska, New Mexico, North Dakota, South Dakota, and Wyoming—Regional Director, 1801 California Street, Suite 1500, Denver, CO 80202-2656.

Fort Worth Regional Office: Arkansas, Kansas (for certain purposes), Oklahoma, and Texas—Regional Director, Burnett