

Public Law 105-72
105th Congress

An Act

To amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title.

Nov. 10, 1997
[S. 1227]

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

SECTION 1. INVESTMENT MANAGERS UNDER ERISA TO INCLUDE FIDUCIARIES REGISTERED SOLELY UNDER STATE LAW ONLY IF FEDERAL REGISTRATION PROHIBITED UNDER RECENTLY ENACTED PROVISIONS.

(a) IN GENERAL.—Section 3(38)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(38)(B)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(2) by striking “who is” and all that follows through clause (i) and inserting the following: “who (i) is registered as an investment adviser under the Investment Advisers Act of 1940; (ii) is not registered as an investment adviser under such Act by reason of paragraph (1) of section 203A(a) of such Act, is registered as an investment adviser under the laws of the State (referred to in such paragraph (1)) in which it maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such State in order to maintain the fiduciary’s registration under the laws of such State, also filed a copy of such form with the Secretary;”.

(b) AVAILABILITY OF DOCUMENTS VIA FILING DEPOSITORY.—

A fiduciary shall be treated as meeting the requirements of section 3(38)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) relating to provision to the Secretary of Labor of a copy of the form referred to therein, if a copy of such form (or substantially similar information) is available to the Secretary of Labor from a centralized electronic or other record-keeping database.

29 USC 1002
note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 8, 1997, except that the requirement of section 3(38)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by this Act) for filing with the Secretary of Labor of a copy of a registration form which has been filed with a State before the date of the enactment of this Act, or is to be filed with a State during the 1-year period beginning

29 USC 1002
note.

with such date, shall be treated as satisfied upon the filing of such a copy with the Secretary at any time during such 1-year period. This section shall supersede section 308(b) of the National Securities Markets Improvement Act of 1996 (and the amendment made thereby).

Approved November 10, 1997.

LEGISLATIVE HISTORY—S. 1227:

CONGRESSIONAL RECORD, Vol. 143 (1997):
Sept. 26, considered and passed Senate.
Oct. 28, considered and passed House.

