

TITLE 15 - COMMERCE AND TRADE
CHAPTER 2A - SECURITIES AND TRUST INDENTURES
SUBCHAPTER I - DOMESTIC SECURITIES

§ 77r-1. Preemption of State law

(a) Authority to purchase, hold, and invest in securities; securities considered as obligations of United States

(1) Any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold, and invest in securities that are—

- (A) offered and sold pursuant to section 77d (5) of this title,
- (B) mortgage related securities (as that term is defined in section 78c (a)(41) of this title),
- (C) small business related securities (as defined in section 78c (a)(53) of this title), or
- (D) securities issued or guaranteed by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association,

to the same extent that such person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

(2) Where State law limits the purchase, holding, or investment in obligations issued by the United States by such a person, trust, corporation, partnership, association, business trust, or business entity, such securities that are—

- (A) offered and sold pursuant to section 77d (5) of this title,
- (B) mortgage related securities (as that term is defined in section 78c (a)(41) of this title),
- (C) small business related securities (as defined in section 78c (a)(53) of this title), or
- (D) securities issued or guaranteed by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association,

shall be considered to be obligations issued by the United States for purposes of the limitation.

(b) Exception; validity of contracts under prior law

The provisions of subsection (a) of this section shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of seven years after October 3, 1984, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in subsection (a) of this section. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto and shall not require the sale or other disposition of any securities acquired prior thereto.

(c) Registration and qualification requirements; exemption; subsequent enactment by State

Any securities that are offered and sold pursuant to section 77d (5) of this title, that are mortgage related securities (as that term is defined in section 78c (a)(41) of this title), or that are small business related securities (as defined in section 78c (a)(53) of this title) shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Any State may, prior to the expiration of seven years after October 3, 1984, enact a statute that specifically refers to this section and requires registration or qualification of any such security on terms that differ from those applicable to any obligation issued by the United States.

(d) Implementation

(1) Limitation

The provisions of subsections (a) and (b) of this section concerning small business related securities shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of 7 years after September 23, 1994, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such small business related securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in this section. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to such enactment, and shall not require the sale or other disposition of any small business related securities acquired prior to the date of such enactment.

(2) State registration or qualification requirements

Any State may, not later than 7 years after September 23, 1994, enact a statute that specifically refers to this section and requires registration or qualification of any small business related securities on terms that differ from those applicable to any obligation issued by the United States.

(Pub. L. 98–440, title I, § 106, Oct. 3, 1984, 98 Stat. 1691; Pub. L. 103–325, title II, § 207, Sept. 23, 1994, 108 Stat. 2199.)

Codification

Section was enacted as part of the Secondary Mortgage Market Enhancement Act of 1984, and not as part of the Securities Act of 1933, which comprises this subchapter.

Amendments

1994—Subsec. (a)(1)(B) to (D). Pub. L. 103–325, § 207(a), struck out “or” at end of subpar. (B), added subpar. (C), and redesignated former subpar. (C) as (D).

Subsec. (a)(2)(B) to (D). Pub. L. 103–325, § 207(b), struck out “or” at end of subpar. (B), added subpar. (C), and redesignated former subpar. (C) as (D).

Subsec. (c). Pub. L. 103–325, § 207(c), in first sentence substituted “, that” for “or that” before “are mortgage related securities” and inserted “, or that are small business related securities (as defined in section 78c (a)(53) of this title)” before “shall be exempt”.

Subsec. (d). Pub. L. 103–325, § 207(d), added subsec. (d).