

**TITLE 15 - COMMERCE AND TRADE**  
**CHAPTER 2D - INVESTMENT COMPANIES AND ADVISERS**  
**SUBCHAPTER II - INVESTMENT ADVISERS**

**§ 80b–3a. State and Federal responsibilities**

**(a) Advisers subject to State authorities**

**(1) In general**

No investment adviser that is regulated or required to be regulated as an investment adviser in the State in which it maintains its principal office and place of business shall register under section 80b–3 of this title, unless the investment adviser—

(A) has assets under management of not less than \$25,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this subchapter; or

(B) is an adviser to an investment company registered under subchapter I of this chapter.

**(2) “Assets under management” defined**

For purposes of this subsection, the term “assets under management” means the securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services.

**(b) Advisers subject to Commission authority**

**(1) In general**

No law of any State or political subdivision thereof requiring the registration, licensing, or qualification as an investment adviser or supervised person of an investment adviser shall apply to any person—

(A) that is registered under section 80b–3 of this title as an investment adviser, or that is a supervised person of such person, except that a State may license, register, or otherwise qualify any investment adviser representative who has a place of business located within that State; or

(B) that is not registered under section 80b–3 of this title because that person is excepted from the definition of an investment adviser under section 80b–2 (a)(11) of this title.

**(2) Limitation**

Nothing in this subsection shall prohibit the securities commission (or any agency or office performing like functions) of any State from investigating and bringing enforcement actions with respect to fraud or deceit against an investment adviser or person associated with an investment adviser.

**(c) Exemptions**

Notwithstanding subsection (a) of this section, the Commission, by rule or regulation upon its own motion, or by order upon application, may permit the registration with the Commission of any person or class of persons to which the application of subsection (a) of this section would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of this section.

**(d) State assistance**

Upon request of the securities commissioner (or any agency or officer performing like functions) of any State, the Commission may provide such training, technical assistance, or other reasonable assistance in connection with the regulation of investment advisers by the State.

(Aug. 22, 1940, ch. 686, title II, § 203A, as added Pub. L. 104–290, title III, § 303(a), Oct. 11, 1996, 110 Stat. 3437; amended Pub. L. 109–290, § 7(b)(1), Sept. 29, 2006, 120 Stat. 1321.)

## Amendments

2006—Subsecs. (d), (e). Pub. L. 109–290 redesignated subsec. (e) as (d) and struck out heading and text of former subsec. (d). Text read as follows: “The Commission may, by rule, require an investment adviser—

“(1) to file with the Commission any fee, application, report, or notice required by this subchapter or by the rules issued under this subchapter through any entity designated by the Commission for that purpose; and

“(2) to pay the reasonable costs associated with such filing.”

## Effective Date

Section effective 270 days after Oct. 11, 1996, see section 308(a) of Pub. L. 104–290, as amended, set out as an Effective Date of 1996 Amendment note under section 80b–2 of this title.

## Continued State Authority

Section 307 of title III of Pub. L. 104–290 provided that:

“(a) Preservation of Filing Requirements.—Nothing in this title [see Short Title of 1996 Amendment note set out under section 80b–20 of this title] or any amendment made by this title prohibits the securities commission (or any agency or office performing like functions) of any State from requiring the filing of any documents filed with the Commission pursuant to the securities laws solely for notice purposes, together with a consent to service of process and any required fee.

“(b) Preservation of Fees.—Until otherwise provided by law, rule, regulation, or order, or other administrative action of any State, or any political subdivision thereof, adopted after the date of enactment of this Act [Oct. 11, 1996], filing, registration, or licensing fees shall, notwithstanding the amendments made by this title, continue to be paid in amounts determined pursuant to the law, rule, regulation, or order, or other administrative action as in effect on the day before such date of enactment.

“(c) Availability of Preemption Contingent on Payment of Fees.—

“(1) In general.—During the period beginning on the date of enactment of this Act [Oct. 11, 1996] and ending 3 years after that date of enactment, the securities commission (or any agency or office performing like functions) of any State may require registration of any investment adviser that fails or refuses to pay the fees required by subsection (b) in or to such State, notwithstanding the limitations on the laws, rules, regulations, or orders, or other administrative actions of any State, or any political subdivision thereof, contained in subsection (a), if the laws of such State require registration of investment advisers.

“(2) Delays.—For purposes of this subsection, delays in payment of fees or underpayments of fees that are promptly remedied in accordance with the applicable laws, rules, regulations, or orders, or other administrative actions of the relevant State shall not constitute a failure or refusal to pay fees.”