

Securities Lawyer's Deskbook

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- B. For the purpose of paragraph (1)(B) of this subsection, an unfair burden on a registered investment company includes any arrangement, during the two-year period after the date on which any such transaction occurs, whereby the investment adviser or corporate trustee or predecessor or successor investment advisers or corporate trustee or any interested person of any such adviser or any such corporate trustee receives or is entitled to receive any compensation directly or indirectly (i) from any person in connection with the purchase or sale of securities or other property to, from, or on behalf of such company, other than bona fide ordinary compensation as principal underwriter for such company, or (ii) from such company or its security holders for other than bona fide investment advisory or other services.
3. If--
- A. an assignment of an investment advisory contract with a registered investment company results in a successor investment adviser to such company, or if there is a change in control of or identity of a corporate trustee of a registered investment company, and such adviser or trustee is then an investment adviser or corporate trustee with respect to other assets substantially greater in amount than the amount of assets of such company, or
 - B. as a result of a merger of, or a sale of substantially all the assets by, a registered investment company with or to another registered investment company with assets substantially greater in amount, a transaction occurs which would be subject to paragraph (1)(A) of this subsection, ? such discrepancy in size of assets shall be considered by the Commission in determining whether or to what extent an application under section 6(c) [15 USCS § 80a-6(c)] for exemption from the provisions of paragraph (1)(A) should be granted.
4. Paragraph (1)(A) of this subsection shall not apply to a transaction in which a controlling block of outstanding voting securities of an investment adviser to a registered investment company or of a corporate trustee performing the functions of an investment adviser to a registered investment company is--
- A. distributed to the public and in which there is, in fact, no change in the identity of the persons who control such investment adviser or corporate trustee, or
 - B. transferred to the investment adviser or the corporate trustee, or an affiliated person or persons of such investment adviser or corporate trustee, or is transferred from the investment adviser or corporate trustee to an affiliated person or persons of the investment adviser or corporate trustee: Provided, That (i) each transferee (other than such adviser or trustee) is a natural person and (ii) the transferees (other than such adviser or trustee) owned in the aggregate more than 25 per centum of such voting securities for a period of at least six months prior to such transfer.

Legislative History

Aug. 22, 1940, ch 686, Title I, § 15, 54 Stat. 812; Dec. 14, 1970, P.L. 91-547, § 8, 84 Stat. 1419; June 4,

1975, P.L. 94-29, § 28(1), (2), (4), 89 Stat. 164, 165; Dec. 4, 1987, P.L. 100-181, Title VI, § 611, 101 Stat. 1261.

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