

105TH CONGRESS
1ST SESSION

S. 1227

AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. INVESTMENT MANAGERS UNDER ERISA TO IN-**
 2 **CLUDE FIDUCIARIES REGISTERED SOLELY**
 3 **UNDER STATE LAW ONLY IF FEDERAL REG-**
 4 **ISTRATION PROHIBITED UNDER RECENTLY**
 5 **ENACTED PROVISIONS.**

6 (a) IN GENERAL.—Section 3(38)(B) of the Employee
 7 Retirement Income Security Act of 1974 (29 U.S.C.
 8 1002(38)(B)) is amended—

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

11 (2) by striking “who is” and all that follows
 12 through clause (i) and inserting the following: “who
 13 (i) is registered as an investment adviser under the
 14 Investment Advisers Act of 1940; (ii) is not reg-
 15 istered as an investment adviser under such Act by
 16 reason of paragraph (1) of section 203A(a) of such
 17 Act, is registered as an investment adviser under the
 18 laws of the State (referred to in such paragraph (1))
 19 in which it maintains its principal office and place
 20 of business, and, at the time the fiduciary last filed
 21 the registration form most recently filed by the fidu-
 22 ciary with such State in order to maintain the fidu-
 23 ciary’s registration under the laws of such State,
 24 also filed a copy of such form with the Secretary;”.

25 (b) AVAILABILITY OF DOCUMENTS VIA FILING DE-
 26 POSITORY.—A fiduciary shall be treated as meeting the

1 requirements of section 3(38)(B)(ii) of the Employee Re-
2 tirement Income Security Act of 1974 (as amended by
3 subsection (a)) relating to provision to the Secretary of
4 Labor of a copy of the form referred to therein, if a copy
5 of such form (or substantially similar information) is
6 available to the Secretary of Labor from a centralized elec-
7 tronic or other record-keeping database.

8 (c) EFFECTIVE DATE.—The amendments made by
9 subsection (a) shall take effect on July 8, 1997, except
10 that the requirement of section 3(38)(B)(ii) of the Em-
11 ployee Retirement Income Security Act of 1974 (as
12 amended by this Act) for filing with the Secretary of
13 Labor of a copy of a registration form which has been
14 filed with a State before the date of the enactment of this
15 Act, or is to be filed with a State during the 1-year period
16 beginning with such date, shall be treated as satisfied
17 upon the filing of such a copy with the Secretary at any
18 time during such 1-year period. This section shall super-
19 sede section 308(b) of the National Securities Markets Im-

1 provement Act of 1996 (and the amendment made there-
2 by).

Passed the Senate September 26, 1997.

Attest:

Secretary.

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