

Securities and Exchange Commission

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procedures under which the delegate makes such determinations:

(2) *Oversight.* The Board shall take any measures reasonably necessary (through periodic reviews of fund investments and the delegate's procedures in connection with investment decisions and prompt review of the adviser's actions in the event of the default of a security or Event of Insolvency with respect to the issuer of the security or any Guarantee to which it is subject that requires notification of the Commission under paragraph (c)(6)(iii) of this section) to assure that the guidelines and procedures are being followed.

[62 FR 64978, Dec. 9, 1997]

§ 270.2a19-1 Certain investment company directors not considered interested persons.

(a) A director of a registered investment company will not be considered an interested person, as defined by section 2(a)(19) of the Act, of such company or of any investment adviser or principal underwriter for such company solely because that director is a broker or dealer registered under the Securities Exchange Act of 1934 or an affiliated person of a registered broker or dealer, *Provided*, That:

(1) The broker or dealer does not execute any portfolio transactions for the company's complex, engage in any principal transactions with the complex or distribute shares for the complex for at least six months prior to the time that the director is to be considered not to be an interested person and for the period during which the director continues to be considered not to be an interested person;

(2) The company's board of directors determines that the company and its shareholders will not be adversely affected if the broker or dealer does not execute any portfolio transactions for the company, engage in any principal transactions with the company or distribute any shares of the company; and

(3) No more than a minority of the directors of the company who are not interested persons of the company are registered brokers or dealers or affiliated persons of registered brokers or dealers.

(b) For purposes of this rule, *complex* shall mean the registered investment company, its investment adviser (including all accounts over which the adviser has brokerage placement discretion), its principal underwriter and all other investment companies having the same investment adviser or principal underwriter.

[49 FR 40572, Oct. 17, 1984]

EFFECTIVE DATE NOTE: At 66 FR 3758, Jan. 16, 2001, § 270.2a19-1 was removed effective May 12, 2001.

§ 270.2a19-2 Investment company general partners not deemed interested persons.

PRELIMINARY NOTE TO § 270.2a19-2

This § 270.2a19-2 conditionally excepts from the definition of interested person in section 2(a)(19) (15 U.S.C. 80a-2(a)(19)) general partners of investment companies organized in limited partnership form. Compliance with the conditions of this § 270.2a19-2 does not relieve an investment company of any other requirement of this Act, or except a general partner that is an interested person by virtue of any other provision.

(a) *Director General Partners Not Deemed Interested Persons.* A general partner serving as a director of a limited partnership investment company shall not be deemed to be an interested person of such company, or of any investment adviser of, or principal underwriter for, such company, solely by reason of being a partner of the limited partnership investment company, or a copartner in the limited partnership investment company with any investment adviser of, or principal underwriter for, the company, *provided* that the Limited Partnership Agreement contains in substance the following:

(1) Only general partners who are natural persons shall serve as, and perform the functions of, directors of the limited partnership investment company, except that any general partner may act as provided in paragraph (a)(2)(iii) of this section.

(2) A general partner shall not have the authority to act individually on behalf of, or to bind, the Limited Partnership Investment Company, except:

(i) In such person's capacity as investment adviser, principal underwriter, or administrator;

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(ii) Within the scope of such person's authority as delegated by the board of directors; or

(iii) In the event that no director of the company remains, to the extent necessary to continue the Limited Partnership Investment Company, for such limited periods as are permitted under the Act to fill director vacancies.

(3) Limited partners shall have all of the rights afforded shareholders under the Act. If a limited partnership interest is transferred in a manner that is effective under the Partnership Agreement, the transferee shall have all of the rights afforded shareholders under the Act.

(4) A general partner shall not withdraw from the Limited Partnership Investment Company or reduce its Federal Tax Status Contribution without giving at least one year's prior written notice to the Limited Partnership Investment Company, if such withdrawal or reduction is likely to cause the company to lose its partnership tax classification. This paragraph (a)(4) shall not apply to an investment adviser general partner if the company terminates its advisory agreement with such general partner.

(b) *Definitions.* (1) "Federal Tax Status Contribution" shall mean the interest (including limited partnership interest) in each material item of partnership income, gain, loss, deduction, or credit, and other contributions, required to be held or made by general partners, pursuant to section 4 of Internal Revenue Service Revenue Procedure 89-12, or any successor provisions thereto.

(2) "Limited Partnership Investment Company" shall mean a registered management company or a business development company that is organized as a limited partnership under state law.

(3) "Partnership Agreement" shall mean the agreement of the partners of the Limited Partnership Investment Company as to the affairs of the limited partnership and the conduct of its business.

[58 FR 45838, Aug. 31, 1993; 58 FR 64353, Dec. 6, 1993; 59 FR 15501, Apr. 1, 1994]

§ 270.2a19-3 Certain investment company directors not considered interested persons because of ownership of index fund securities.

If a director of a registered investment company ("Fund") owns shares of a registered investment company (including the Fund) with an investment objective to replicate the performance of one or more broad-based securities indices ("Index Fund"), ownership of the Index Fund shares will not cause the director to be considered an "interested person" of the Fund or of the Fund's investment adviser or principal underwriter (as defined by section 2(a)(19)(A)(iii) and (B)(iii) of the Act (15 U.S.C. 80a-2(a)(19)(A)(iii) and (B)(iii)).

[66 FR 3758, Jan. 16, 2001]

§ 270.2a41-1 Valuation of standby commitments by registered investment companies.

(a) A standby commitment means a right to sell a specified underlying security or securities within a specified period of time and at an exercise price equal to the amortized cost of the underlying security or securities plus accrued interest, if any, at the time of exercise, that may be sold, transferred or assigned only with the underlying security or securities. A standby commitment entitles the holder to receive same day settlement, and will be considered to be from the party to whom the investment company will look for payment of the exercise price. A standby commitment may be assigned a fair value of zero, Provided, That:

(1) The standby commitment is not used to affect the company's valuation of the security or securities underlying the standby commitment; and

(2) Any consideration paid by the company for the standby commitment, whether paid in cash or by paying a premium for the underlying security or securities, is accounted for by the company as unrealized depreciation until the standby commitment is exercised or expires.

(b) [Reserved]

[51 FR 9779, Mar. 21, 1986, as amended at 56 FR 8128, Feb. 27, 1991; 61 FR 13982, Mar. 28, 1996; 62 FR 64986, Dec. 9, 1997]