

(d) Every depositor of any registered investment company, and every principal underwriter for any registered investment company other than a closed-end investment company, shall maintain such accounts, books and other documents as are required to be maintained by brokers and dealers by rule adopted under section 17 of the Securities Exchange Act of 1934, to the extent such records are necessary or appropriate to record such person's transactions with such registered investment company.

(e) Every investment advisor which is a majority-owned subsidiary of a registered investment company shall maintain in the form prescribed therein such accounts, books and other documents as are required to be maintained by registered investment advisers by rule adopted under section 204 of the Investment Advisers Act of 1940.

(f) Every investment adviser not a majority-owned subsidiary of a registered investment company shall maintain such accounts, books and other documents as are required to be maintained by registered investment advisers by rule adopted under section 204 of the Investment Advisers Act of 1940, to the extent such records are necessary or appropriate to record such person's transactions with such registered investment company.

(Sec. 31, 54 Stat. 838; 15 U.S.C. 80a-30)

[27 FR 11993, Dec. 5, 1962, as amended at 61 FR 13983, Mar. 28, 1996; 62 FR 64986, Dec. 9, 1997]

§ 270.31a-2 Records to be preserved by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.

(a) Every registered investment company shall:

(1) Preserve permanently, the first two years in an easily accessible place, all books and records required to be made pursuant to paragraphs (1) through (4) of § 270.31a-1(b);

(2) Preserve for a period not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, all books and records required to be made pursuant to para-

graphs (5) through (12) or § 270.31a-1(b) and all vouchers, memoranda, correspondence, checkbooks, bank statements, cancelled checks, cash reconciliations, cancelled stock certificates, and all schedules evidencing and supporting each computation of net asset value of the investment company shares, and other documents required to be maintained by § 270.31a-1(a) and not enumerated in § 270.31a-1(b);

(3) Preserve for a period not less than 6 years from the end of the fiscal year last used, the first 2 years in an easily accessible place, any advertisement, pamphlet, circular, form letter or other sales literature addressed to or intended for distribution to prospective investors;

(4) Preserve for a period not less than six years, the first two years in an easily accessible place, any record of the initial determination that a director is not an interested person of the investment company, and each subsequent determination that the director is not an interested person of the investment company. These records must include any questionnaire and any other document used to determine that a director is not an interested person of the company; and

(5) Preserve for a period not less than six years, the first two years in an easily accessible place, any materials used by the disinterested directors of an investment company to determine that a person who is acting as legal counsel to those directors is an independent legal counsel.

(b) Every underwriter, broker, or dealer which is a majority-owned subsidiary of a registered investment company shall preserve for the periods prescribed therein such accounts, books and other documents as are required to be preserved by brokers and dealers by rule adopted under section 17 of the Securities Exchange Act of 1934.

(c) Every depositor of any registered investment company, and every principal underwriter for any registered investment company other than a closed-end company, shall preserve for a period of not less than six years such accounts, books and other documents as are required to be maintained by brokers and dealers by rule adopted under section 17 of the Securities Exchange

§ 270.31a-3

17 CFR Ch. II (4-1-01 Edition)

Act of 1934, to the extent such records are necessary or appropriate to record such person's transactions with such registered investment company.

(d) Every investment adviser which is a majority-owned subsidiary of a registered investment company shall preserve for the periods prescribed therein such accounts, books and other documents as are required to be preserved by investment advisers by rule adopted under section 204 of the Investment Advisers Act of 1940.

(e) Every investment adviser not a majority-owned subsidiary of a registered investment company shall preserve for a period of not less than six years such accounts, books and other documents as are required to be maintained by registered investment advisers by rule adopted under section 204 of the Investment Advisers Act of 1940, to the extent such records are necessary or appropriate to record such person's transactions with such registered investment company.

(f)(1) The records required to be maintained and preserved under paragraphs (a) through (d) of Rule 31a-1 and paragraphs (a) through (c) of Rule 31a-2 may be immediately produced or reproduced on photographic film or, as provided in paragraph (f)(2) of this section, on magnetic tape, disk, or other computer storage medium, and be maintained and preserved for the required time in that form. If such records are produced or reproduced by photographic film or computer storage medium by, or on behalf of, an investment company, such investment company shall:

(i) Arrange the records and index and file the films or computer storage medium in such a manner as to permit the immediate access and retrieval of any particular record;

(ii) Be ready at all times to provide, and promptly provide, any facsimile enlargement of film or computer print-out or copies of the computer storage medium that the Commission, by its examiners or other representatives, or the directors of such investment company may request;

(iii) Store separately from the original one other copy of the photographic film or computer storage medium for the time required;

(iv) With respect to records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records so as to reasonably safeguard records from loss, alteration, or destruction; and

(v) With respect to records stored on photographic film, at all times have available for examination of its records by the Commission, pursuant to section 31 of the Investment Company Act of 1940, or by the directors of such investment company, facilities for immediate, easily readable projection of the photographic film and for producing easily readable facsimile enlargements.

(2) Under paragraph (f)(1) of this section, an investment company may maintain and preserve on computer tape, disk, or other computer storage medium records that, in the ordinary course of the investment company's business, are created by, or on behalf of, the investment company on electronic media or are received by, or on behalf of, the investment company solely on electronic media or by electronic data transmission.

(3) Notwithstanding the provisions of paragraphs (a) through (e) of this section, any record, book or other document may be destroyed in accordance with a plan previously submitted to and approved by the Commission. A plan shall be deemed to have been approved by the Commission if notice to the contrary has not been received within 90 days after submission of the plan to the Commission.

[27 FR 11994, Dec. 5, 1962, as amended at 38 FR 7797, Mar. 26, 1973; 51 FR 42209, Nov. 24, 1986; 53 FR 3880, Feb. 10, 1988; 66 FR 3759, Jan. 16, 2001]

§ 270.31a-3 Records prepared or maintained by other than person required to maintain and preserve them.

(a) If the records required to be maintained and preserved pursuant to the provisions of §§ 270.31a-1 and 270.31a-2 are prepared or maintained by others on behalf of the person required to maintain and preserve such records, the person required to maintain and preserve such records shall obtain from such other person an agreement in writing to the effect that such records are the property of the person required