standing of a securities association registered under section 15A of the Securities Exchange Act of 1934.

(vii) Applicant will appoint an accountant, qualified to act as an independent public accountant for the applicant under the act and the rules thereunder, who maintains a permanent office and place of business in the United States.

(viii) Any contract entered into between the applicant and its investment adviser and principal underwriter will contain provisions in compliance with the requirements of sections 15, 17(i) and 31 and the rules thereunder, and require that the investment adviser maintain in the United States its books and records or duplicate copies thereof relating to applicant.

(ix) Applicant's Charter and By Laws will not be changed in any manner inconsistent with this paragraph or the Act and the rules thereunder unless authorized by the Commission.

(9) Contracts of the applicant, other than those executed on an established securities exchange which do not involve affiliated persons, will provide that:

(i) Such contracts, irrespective of the place of their execution or performance, will be performed in accordance with the requirements of the Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, if the subject matter of such contracts is within the purview of such acts; and

(ii) In effecting the purchase or sale of assets the parties thereto will utilize the United States mails or means of interstate commerce.

(10) Applicant will furnish to the Commission with its registration statement filed under the Act a list of persons affiliated with it and with its investment adviser and principal underwriter and will furnish revisions of such list, if any, concurrently with the filing of periodic reports required to be filed under the Act.

(Sec. 7, 54 Stat. 802; 15 U.S.C. 80a–7; secs. 6(c); 15 U.S.C. 80a–6(c); and 38(a); 15 U.S.C. 80a–37(a) of the Act)

[19 FR 2585, May 5, 1954, as amended at 38 FR 8593, Apr. 4, 1973; 49 FR 36084, Sept. 14, 1984; 65 FR 25637, May 3, 2000]

## § 270.7d–2 Definition of "public offering" as used in section 7(d) of the Act with respect to certain Canadian tax-deferred retirement savings accounts.

(a) *Definitions.* As used in this section:

(1) *Canadian law* means the federal laws of Canada, the laws of any province or territory of Canada, and the rules or regulations of any federal, provincial, or territorial regulatory authority, or any self-regulatory authority, of Canada.

(2) *Canadian Retirement Account* means a trust or other arrangement, including, but not limited to, a ''Registered Retirement Savings Plan'' or ''Registered Retirement Income Fund'' administered under Canadian law, that is managed by the Participant and:

(i) Operated to provide retirement benefits to a Participant; and

(ii) Established in Canada, administered under Canadian law, and qualified for tax-deferred treatment under Canadian law.

(3) *Eligible Security* means a security issued by a Qualified Company that:

(i) Is offered to a Participant, or sold to his or her Canadian Retirement Account, in reliance on this section; and

(ii) May also be purchased by Canadians other than Participants.

(4) *Foreign Government* means the government of any foreign country or of any political subdivision of a foreign country.

(5) *Foreign Issuer* means any issuer that is a Foreign Government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country, except an issuer meeting the following conditions:

(i) More than 50 percent of the outstanding voting securities of the issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and

(ii) Any of the following:

(A) The majority of the executive officers or directors are United States citizens or residents;

(B) More than 50 percent of the assets of the issuer are located in the United States; or

(C) The business of the issuer is administered principally in the United States.

(iii) For purposes of this definition, the term *resident*, as applied to security holders, means any person whose address appears on the records of the issuer, the voting trustee, or the depositary as being located in the United States.

(6) *Participant* means a natural person who is a resident of the United States, or is temporarily present in the United States, and who contributes to, or is or will be entitled to receive the income and assets from, a Canadian Retirement Account.

(7) *Qualified Company* means a Foreign Issuer whose securities are qualified for investment on a tax-deferred basis by a Canadian Retirement Account under Canadian law.

(8) *United States* means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia.

(b) *Public Offering*. For purposes of section 7(d) of the Act (15 U.S.C. 80a–7(d)), the term ''public offering'' does not include the offer to a Participant, or the sale to his or her Canadian Retirement Account, of Eligible Securities issued by a Qualified Company, if the Qualified Company:

(1) Includes in any written offering materials delivered to a Participant, or to his or her Canadian Retirement Account, a prominent statement that the Eligible Security, and the Qualified Company that issued the Eligible Security, are not registered with the U.S. Securities and Exchange Commission, and that the Eligible Security and the Qualified Company are relying on exemptions from registration.

(2) Has not asserted that Canadian law, or the jurisdiction of the courts of Canada, does not apply in a proceeding involving an Eligible Security.

[65 FR 37677, June 15, 2000]

### § 270.8b–1 Scope of §§ 270.8b–1 to 270.8b–32.

The rules contained in §§ 270.8b–1 to 270.8b–32 shall govern all registration statements pursuant to section 8 of the Act, including notifications of registration pursuant to section 8(a), and all reports pursuant to section 30 (a) or (b) of the Act, including all amendments to such statements and reports, except that any provision in a form covering the same subject matter as any such rule shall be controlling.

[18 FR 8575, Dec. 19, 1953]

### § 270.8b–2 Definitions.

Unless the context otherwise requires, the terms in paragraphs (a) through (m) of this section, when used in the rules contained in §§ 270.8b–1 through 270.8b–32, in the rules under section 30(a) or (b) of the Act or in the forms for registration statements and reports pursuant to section 8 or 30(a) or (b) of the Act, shall have the respective meanings indicated in this section. The terms ''EDGAR,'' ''EDGAR Filer Manual,'' ''electronic filer,'' ''electronic filing,'' ''electronic format,'' ''electronic submission,'' ''paper format,'' and ''signature'' shall have the meanings assigned to such terms in Regulation S–T—General Rules for Electronic Filings (Part 232 of this chapter).

(a) *Amount*. The term ''amount'', when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(b) *Certified*. The term ''certified'', when used in regard to financial statements, means certified by an independent public or independent certified public accountant or accountants.

(c) *Charter*. The term ''charter'' includes articles of incorporation, declaration of trust, articles of association or partnership, or any similar instrument, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

(d) *Employee*. The term ''employee'' does not include a director, trustee, officer or member of the advisory board.

(e) *Fiscal year*. The term ''fiscal year'' means the annual accounting period or, if no closing date has been adopted, the calendar year ending on December 31.

(f) *Investment income*. The term ''investment income'' means the aggregate of net operating income or loss from real estate and gross income from interest, dividends and all other