

(3) Government securities; and

(4) Units of a previously issued series of the Trust: *Provided, That:*

(i) The aggregate principal amount of units of existing series so deposited shall not exceed 10% of the aggregate principal amount of the portfolio of the new series;

(ii) The aggregate principal amount of units of any particular existing series so deposited shall not exceed 5% of the aggregate principal amount of the portfolio of the new series;

(iii) No units shall be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited;

(iv) The value of the eligible trust securities underlying units of an existing series deposited in a new series shall not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated;

(v) Units of existing series so deposited shall constitute units purchased by the sponsor as market maker and not remaining unsold units from the original distribution of such units; and

(vi) The sponsor shall deposit units of existing series in the new series without a sales charge.

(Secs. 6(c) and 38(a) (15 U.S.C. 80a-6(c) and 15 U.S.C. 80a-37(a)))

[44 FR 29646, May 22, 1979; 44 FR 40064, July 9, 1979]

§ 270.15a-1 Exemption from stockholders' approval of certain small investment advisory contracts.

An investment adviser of a registered investment company shall be exempt from the requirement of sections 15(a) and 15(e) of the Act (54 Stat. 812; 15 U.S.C. 80a-15) that the written contract pursuant to which he acts shall have been approved by the vote of a majority of the outstanding voting securities of such company, if the following conditions are met:

(a) Such investment adviser is not an affiliated person of such company (except as investment adviser) nor of any principal underwriter for such company.

(b) His compensation as investment adviser of such company in any fiscal year of the company during which any such contract is in effect either (1) is not more than \$100 or (2) is not more than \$2,500 and not more than $\frac{1}{40}$ of 1 percent of the value of the company's net assets averaged over the year or taken as of a definite date or dates within the year.

(c) The aggregate compensation of all investment advisers of such company exempted pursuant to this section in any fiscal year of the company either (1) is not more than \$200 or (2) is not more than $\frac{1}{20}$ of 1 percent of the value of the company's net assets averaged over the year or taken as of a definite date or dates within the year.

[Rule N-15A-1, 6 FR 2275, Jan. 8, 1944]

§ 270.15a-2 Annual continuance of contracts.

(a) For purposes of sections 15(a) and 15(b) of the Act, the continuance of a contract for a period more than two years after the date of its execution shall be deemed to have been specifically approved at least annually by the board of directors or by a vote of a majority of the outstanding voting securities of a registered investment company if such approval occurs:

(1) With respect to the first continuance of a contract, during the 90 days prior to and including the earlier of (i) the date specified in such contract for its termination in the absence of such approval, or (ii) the second anniversary of the date upon which such contract was executed; or

(2) With respect to any subsequent continuance of a contract, during the 90 days prior to and including the first anniversary of the date upon which the most recent previous annual continuance of such contract became effective.

(b) The provisions of paragraph (a) of this section shall not apply to any continuance of a contract which shall have been approved not later than 90 days after the date of adoption of this section, provided that such contract shall expire, by its terms, not later than 17 months from the date of adoption of this section.

NOTE: This section does not establish the exclusive method of complying with the Act.

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It provides one procedure by which a registered investment company may comply with the applicable provisions of sections 15(a) and 15(b) of the Act; it does not preclude any other appropriate procedure. Any annual continuance of a contract approved in accordance with the provisions of paragraph (a)(1) or (a)(2) of § 270.15a-2 will constitute a renewal of such contract for the purposes of section 15(c) of the Act, and therefore such renewal must be approved by the disinterested directors within the times specified in the section for a continuance.

[41 FR 41911, Sept. 24, 1976]

§ 270.15a-3 Exemption for initial period of investment adviser of certain registered separate accounts from requirement of security holder approval of investment advisory contract.

(a) An investment adviser of a registered separate account shall be exempt from the requirement under section 15(a) of the Act that the initial written contract pursuant to which the investment adviser serves or acts shall have been approved by the vote of a majority of the outstanding voting securities of such registered separate account, subject to the following conditions:

(1) Such registered separate account qualifies for exemption from section 14(a) of the Act pursuant to § 270.14a-2, or is exempt therefrom by order of the Commission upon application; and

(2) Such written contract shall be submitted to a vote of variable annuity contract owners at their first meeting after the effective date of the registration statement under the Securities Act of 1933, as amended (15 U.S.C. 77a et seq.) relating to variable annuity contracts participating in such account: *Provided*, That such meeting shall take place within 1 year after such effective date, unless the time for the holding of such meeting shall be extended by the Commission upon written request showing good cause therefor.

(Sec. 6, 54 Stat. 800; 15 U.S.C. 80a-6)

[34 FR 12695, Aug. 5, 1969]

§ 270.15a-4 Temporary exemption for certain investment advisers.

(a) For purposes of this section:

(1) *Fund* means an investment company, and includes a separate series of the company.

(2) *Interim contract* means a written investment advisory contract:

(i) That has not been approved by a majority of the fund's outstanding voting securities; and

(ii) That has a duration no greater than 150 days following the date on which the previous contract terminates.

(3) *Previous contract* means an investment advisory contract that has been approved by a majority of the fund's outstanding voting securities and has been terminated.

(b) Notwithstanding section 15(a) of the Act (15 U.S.C. 80a-15(a)), a person may act as investment adviser for a fund under an interim contract after the termination of a previous contract as provided in paragraphs (b)(1) or (b)(2) of this section:

(1) In the case of a previous contract terminated by an event described in section 15(a)(3) of the Act (15 U.S.C. 80a-15(a)(3)), by the failure to renew the previous contract, or by an assignment (other than an assignment by an investment adviser or a controlling person of the investment adviser in connection with which assignment the investment adviser or a controlling person directly or indirectly receives money or other benefit):

(i) The compensation to be received under the interim contract is no greater than the compensation the adviser would have received under the previous contract; and

(ii) The fund's board of directors, including a majority of the directors who are not interested persons of the fund, has approved the interim contract within 10 business days after the termination, at a meeting in which directors may participate by any means of communication that allows all directors participating to hear each other simultaneously during the meeting.

(2) In the case of a previous contract terminated by an assignment by an investment adviser or a controlling person of the investment adviser in connection with which assignment the investment adviser or a controlling person directly or indirectly receives money or other benefit: