over any other unsecured debt securities in the payment of principal and interest: And further provided, That all other debt securities then outstanding issued by such small business investment company were issued as permitted by §270.18c–1 or this section.

(b) Any security issued and sold as permitted by paragraph (a) of this section shall be deemed for purposes of §270.18c–1 to be privately held by the Small Business Administration and for purposes of §270.18c–1 shall not be deemed to be publicly held outstanding indebtedness.

(c) The issuance or sale of any security as permitted by paragraph (a) of this section shall not be deemed to be a sale to any person other than the Small Business Administration or any small business investment company licensed under the Small Business Investment Company Act of 1958 which is exempt from any provision of the Investment Company Act of 1940 (15 U.S.C. 80a–4, 80a–29 and 80a–37).


§270.18f–2 Fair and equitable treatment for holders of each class or series of stock of series investment companies.

(a) A registered open-end investment company which has the right to redeem securities of which it is the issuer in assets other than cash may file with the Commission at any time a notification of election on Form N–1BF–1 (§274.51 of this chapter) committing itself to pay in cash all requests for redemption by any shareholder of record, limited in amount with respect to each shareholder during any 90-day period to the lesser of

(1) $250,000 or
(2) 1 percent of the net asset value of such company at the beginning of such period.

(b) An election pursuant to paragraph (a) of this section:

(1) Shall be described in either the prospectus or the Statement of Additional Information, at the discretion of the investment company, and
(2) Shall be irrevocable while this §270.18f–1 is in effect unless the Commission by order upon application permits the withdrawal of such notification of election as being appropriate in the public interest and consistent with the protection of investors.

(c) Upon making the election described in paragraph (a) of this section, an investment company shall be exempt from the requirements of section 18(f)(1) of the Act to the extent necessary for such company to effectuate redemptions in the manner set forth in such paragraph.

(Secls. 7, 10, and 19 of the Securities Act of 1933 (15 U.S.C. 77g, 77j, and 77t) and secs. 8, 30 and 38 of the Investment Company Act of 1940 (15 U.S.C. 80a–8, 80a–29 and 80a–37))

[37 FR 7590, Apr. 18, 1972]
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securities of a series company for the approval required by section 15(a) of the Act, such matter shall be deemed to be effectively acted upon with respect to any class or series of securities of such company if a majority of the outstanding voting securities of such class or series vote for the approval of such matter, notwithstanding (i) that such matter has not been approved by the holders of a majority of the outstanding voting securities of any other class or series affected by such matter, and (ii) that such matter has not been approved by the vote of a majority of the outstanding voting securities of such company, provided that if such a majority is required by State law or otherwise, such requirement shall apply.

(2) If any class or series of securities of a series company fails to approve an investment advisory contract in the manner required by paragraph (c)(1) of this section, the investment adviser of such company may continue to serve or act in such capacity for the period of time pending such required approval of such contract, of a new contract with the same or different adviser, or other definitive action: Provided, That the compensation received by such investment adviser during such period is equal to no more than its actual costs incurred in furnishing investment advisory services to such class or series or the amount it would have received under the advisory contract, whichever is less.

(d) With respect to the submission of a change in investment policy to the holders of the outstanding voting securities of a series company for the approval required by section 13 of the Act, such matter shall be deemed to have been effectively acted upon with respect to any class or series of such company if a majority of the outstanding voting securities of such class or series vote for the approval of such matter, notwithstanding (1) that such matter has not been approved by the holders of a majority of the outstanding voting securities of any other class or series affected by such matter, and (2) that such matter has not been approved by the vote of a majority of the outstanding voting securities of such company: Provided, That if such a majority is required by State law or otherwise, such requirement shall apply.

(e) The submission to shareholders of the selection of the independent public accountant of a series company required by section 32(a) of the Act shall be exempt from the separate voting requirements of paragraph (a) of this §270.18f–2.

(f) The submission to shareholders of a contract with a principal underwriter of a series company required by section 15(b) of the Act shall be exempt from the separate voting requirements of paragraph (a) of this §270.18f–2.

(g) The submission to shareholders of nominees for election as directors required by section 16(a) of the Act shall be exempt from the separate voting requirements of paragraph (a) of this §270.18f–2.

(h) For the purposes of this §270.18f–2 a “majority of the outstanding voting securities” of a class or series, (1) when used with respect to a matter required by any provision of the Act to be submitted to the outstanding voting securities of a series company, shall have the same meaning as a “majority of the outstanding voting securities of a company” as defined in section 2(a)(42) of the Act; and (2) when used with respect to any other matter required to be submitted to the outstanding voting securities of a series company, shall mean the lesser of (i) the minimum vote of the outstanding voting securities of a company required by applicable State law or other applicable requirement, or (ii) the minimum vote specified by paragraph (1) of this paragraph (h), unless State law requires approval of such matters by a specified percentage of the outstanding voting securities of a particular class or series, in which case, State law shall apply.

(Secs. 6(c), 13, 15(a), 15(b), 16(a), 18(f)(2), 32(a), 54 Stat. 600, 811, 812, 813, 817, 838, 841, 15 U.S.C. 80a–6(c), 80a–13, 80a–15(b), 80a–16(a), 80a–18(f)(2), 80a–31(a), 80a–37(a), Pub. L. 91–547, 84 Stat. 1421)

[37 FR 17386, Aug. 26, 1972]

§ 270.18f–3 Multiple class companies.

Notwithstanding sections 18(f)(1) and 18(i) of the Act (15 U.S.C. 80a–18(f)(1) and (1), respectively), a registered