

(c) A policy to provide a Fund's shareholders with notice of a change in a Fund's investment policy as described in paragraphs (a)(2)(ii) and (a)(3)(iii) of this section must provide that:

(1) The notice will be provided in plain English in a separate written document;

(2) The notice will contain the following prominent statement, or similar clear and understandable statement, in bold-face type: "Important Notice Regarding Change in Investment Policy"; and

(3) The statement contained in paragraph (c)(2) of this section also will appear on the envelope in which the notice is delivered or, if the notice is delivered separately from other communications to investors, that the statement will appear either on the notice or on the envelope in which the notice is delivered.

(d) For purposes of this section:

(1) *Fund* means a registered investment company and any series of the investment company.

(2) *Assets* means net assets, plus the amount of any borrowings for investment purposes.

[66 FR 8518, Feb. 1, 2001; 66 FR 14828, Mar. 14, 2001]

**§ 270.38a-1 Compliance procedures and practices of certain investment companies.**

(a) Each registered investment company and business development company ("fund") must:

(1) *Policies and procedures.* Adopt and implement written policies and procedures reasonably designed to prevent violation of the Federal Securities Laws by the fund, including policies and procedures that provide for the oversight of compliance by each investment adviser, principal underwriter, administrator, and transfer agent of the fund;

(2) *Board approval.* Obtain the approval of the fund's board of directors, including a majority of directors who are not interested persons of the fund, of the fund's policies and procedures and those of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, which approval must be based on a finding by

the board that the policies and procedures are reasonably designed to prevent violation of the Federal Securities Laws by the fund, and by each investment adviser, principal underwriter, administrator, and transfer agent of the fund;

(3) *Annual review.* Review, no less frequently than annually, the adequacy of the policies and procedures of the fund and of each investment adviser, principal underwriter, administrator, and transfer agent and the effectiveness of their implementation;

(4) *Chief compliance officer.* Designate one individual responsible for administering the fund's policies and procedures adopted under paragraph (a)(1) of this section:

(i) Whose designation and compensation must be approved by the fund's board of directors, including a majority of the directors who are not interested persons of the fund;

(ii) Who may be removed from his or her responsibilities by action of (and only with the approval of) the fund's board of directors, including a majority of the directors who are not interested persons of the fund;

(iii) Who must, no less frequently than annually, provide a written report to the board that, at a minimum, addresses:

(A) The operation of the policies and procedures of the fund and each investment adviser, principal underwriter, administrator, and transfer agent of the fund, any material changes made to those policies and procedures since the date of the last report, and any material changes to the policies and procedures recommended as a result of the annual review conducted pursuant to paragraph (a)(3) of this section; and

(B) Each Material Compliance Matter that occurred since the date of the last report; and

(iv) Who must, no less frequently than annually, meet separately with the fund's independent directors.

(b) *Unit investment trusts.* If the fund is a unit investment trust, the fund's principal underwriter or depositor must approve the fund's policies and procedures and chief compliance officer, must receive all annual reports, and must approve the removal of the

§ 270.45a-1

17 CFR Ch. II (4-1-21 Edition)

chief compliance officer from his or her responsibilities.

(c) *Undue influence prohibited.* No officer, director, or employee of the fund, its investment adviser, or principal underwriter, or any person acting under such person's direction may directly or indirectly take any action to coerce, manipulate, mislead, or fraudulently influence the fund's chief compliance officer in the performance of his or her duties under this section.

(d) *Recordkeeping.* The fund must maintain:

(1) A copy of the policies and procedures adopted by the fund under paragraph (a)(1) that are in effect, or at any time within the past five years were in effect, in an easily accessible place; and

(2) Copies of materials provided to the board of directors in connection with their approval under paragraph (a)(2) of this section, and written reports provided to the board of directors pursuant to paragraph (a)(4)(iii) of this section (or, if the fund is a unit investment trust, to the fund's principal underwriter or depositor, pursuant to paragraph (b) of this section) for at least five years after the end of the fiscal year in which the documents were provided, the first two years in an easily accessible place; and

(3) Any records documenting the fund's annual review pursuant to paragraph (a)(3) of this section for at least five years after the end of the fiscal year in which the annual review was conducted, the first two years in an easily accessible place.

(e) *Definitions.* For purposes of this section:

(1) *Federal Securities Laws* means the Securities Act of 1933 (15 U.S.C. 77a-aa), the Securities Exchange Act of 1934 (15 U.S.C. 78a-mm), the Sarbanes-Oxley Act of 2002 (Pub. L. 107-204, 116 Stat. 745 (2002)), the Investment Company Act of 1940 (15 U.S.C. 80a), the Investment Advisers Act of 1940 (15 U.S.C. 80b), Title V of the Gramm-Leach-Bliley Act (Pub. L. No. 106-102, 113 Stat. 1338 (1999)), any rules adopted by the Commission under any of these statutes, the Bank Secrecy Act (31 U.S.C. 5311-5314; 5316-5332) as it applies to funds, and any rules adopted thereunder by

the Commission or the Department of the Treasury.

(2) A *Material Compliance Matter* means any compliance matter about which the fund's board of directors would reasonably need to know to oversee fund compliance, and that involves, without limitation:

(i) A violation of the Federal securities laws by the fund, its investment adviser, principal underwriter, administrator or transfer agent (or officers, directors, employees or agents thereof),

(ii) A violation of the policies and procedures of the fund, its investment adviser, principal underwriter, administrator or transfer agent, or

(iii) A weakness in the design or implementation of the policies and procedures of the fund, its investment adviser, principal underwriter, administrator or transfer agent.

[68 FR 74729, Dec. 24, 2003]

**§ 270.45a-1 Confidential treatment of names and addresses of dealers of registered investment company securities.**

(a) Exhibits calling for the names and addresses of dealers to or through whom principal underwriters of registered investment companies are currently offering securities and which are required to be furnished with registration statements filed pursuant to section 8(b) of the Act (54 Stat. 804; 15 U.S.C. 80a-8), or periodic reports filed pursuant to section 30(a) or section 30(b)(1) of the Act (54 Stat. 836; 15 U.S.C. 80a-30), shall be the subject of confidential treatment and shall not be made available to the public, except that the Commission may by order make such exhibits available to the public if, after appropriate notice and opportunity for hearing, it finds that public disclosure of such material is necessary or appropriate in the public interest or for the protection of investors.

(b) The exhibits referred to in paragraph (a) of this section shall be filed in quadruplicate with the Commission at the time the registration statement or periodic report is filed. Such exhibits shall be enclosed in a separate envelope marked "Confidential Treatment"

and addressed to the Chairman, Securities and Executive Commission, Washington, DC. Confidential treatment requests shall be submitted in paper only, whether or not the registrant is required to file in electronic format.

[Rule N-45A-1, 7 FR 197, Jan. 10, 1942, as amended at 20 FR 7036, Sept. 20, 1955; 58 FR 14860, Mar. 18, 1993]

**§ 270.55a-1 Investment activities of business development companies.**

Notwithstanding section 55(a) of the Act (15 U.S.C. 80a-54(a)), a business development company may acquire securities purchased in transactions not involving any public offering from an issuer, or from any person who is an officer or employee of the issuer, if the issuer meets the requirements of sections 2(a)(46)(A) and (B) of the Act (15 U.S.C. 80a-2(a)(46)(A) and (B)), but the issuer is not an eligible portfolio company because it does not meet the requirements of §270.2a-46, and the business development company meets the requirements of paragraphs (i) and (ii) of section 55(a)(1)(B) of the Act (15 U.S.C. 80a-54(a)(1)(B)(i) and (ii)).

[71 FR 64092, Oct. 31, 2006]

**§ 270.57b-1 Exemption for downstream affiliates of business development companies.**

Notwithstanding subsection (b)(2) of section 57 of the Act, the provisions of subsection (a) of that section shall not apply to any person (a) solely because that person is directly or indirectly controlled by a business development company or (b) solely because that person is, within the meaning of section 2(a)(3) (C) or (D) of the Act [15 U.S.C. 80a-2(a)(3) (C) or (D)], an affiliated person of a person described in (a) of this section.

[46 FR 16674, Mar. 13, 1981]

**§ 270.60a-1 Exemption for certain business development companies.**

Section 12(d)(1) (A) and (C) of the Act shall not apply to the acquisition by a business development company of the securities of a small business investment company licensed to do business under the Small Business Investment Act of 1958 which is operated as a wholly-owned subsidiary of the business development company.

[46 FR 16674, Mar. 13, 1981]

**PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER**

AUTHORITY: 15 U.S.C. 80a *et seq.*

Subject	Release No.	Date	Fed. Reg. Vol. and Page
Statement of the Commission respecting distinctions between the reporting requirements of section 16(a) of the Securities Exchange Act of 1934 and section 30(f) of the Investment Company Act of 1940.	12	Nov. 16, 1940	11 FR 10991.
Letter of General Counsel relating to sections(b) and 26(c) .....	69	Feb. 19, 1941	Do.
Letter of the Director of the Investment Company Division relating to section 19 and Rule N-19-1 (17 CFR, 270.19a-1).	71	Feb. 21, 1941	Do.
Statement by the Commission relating to section 23(c)(3) and Rule N-23C-1 (17 CFR, 270.23c-1).	78	Mar. 4, 1941	Do.
Letter of General Counsel relating to section 22(d) .....	87	Mar. 14, 1941	11 FR 10992.
Letter of General Counsel relating to section 22(d) .....	89	Mar. 13, 1941	Do.
Letter of General Counsel relating to section 24(b) .....	150	June 20, 1941	Do.
Opinion of General Counsel relating to sections 8(b)(1) and 13(a) .....	167	July 23, 1941	11 FR 10993.
Letter of General Counsel relating to section 10(a) .....	214	Sept. 15, 1941	11 FR 10994.
Extract from letter of the Director of the Corporation Finance Division relating to sections 20 and 34(b).	446	Feb. 5, 1943	Do.
Excerpts from letters of the Director of the Corporation Finance Division relating to section 14 and Schedule 14A under Regulation X-14.	448	Feb. 17, 1943	Do.
Letter of the Director of the Corporation Finance Division relating to section 20 of the Investment Company Act of 1940 and to Rule X-14A-7 under the Securities Exchange Act of 1934 (17 CFR, 240.14a-7).	735	Jan. 3, 1945	11 FR 10995.
Statement of the Commission on the offering of common stock to the public at a per share price substantially in excess of the net asset value of the stock.	3187	Feb. 6, 1961	26 FR 1275.

Subject	Release No.	Date	Fed. Reg. Vol. and Page
Opinion of the Commission that "Equity Funding," "Secured Funding," or "Life Funding" constitutes an investment contract and when publicly offered is required to be registered under the Securities Act of 1933.	3480	May 22, 1962	27 FR 5190.
Statement of the Commission advising all registered investment companies to divest themselves of interest and securities acquired in contravention of the provisions of section 12(d)(3) of the Investment Company Act of 1940 within a reasonable period of time.	3542	Sept. 21, 1962	27 FR 9652.
Statement of the Commission advising any closed-end investment company contemplating repurchase of its own shares to consult with the Division of Corporate re nature of disclosure to be made to security holders.	3548	Oct. 3, 1962	27 FR 9987.
Opinion and statement of the Commission in regard to proper reporting of deferred income taxes arising from installment sales.	4426	Dec. 7, 1965	30 FR 15420.
Statement of the Commission to clarify the meaning of "beneficial ownership of securities" as relates to beneficial ownership of securities held by family members.	4483	Jan. 19, 1966	31 FR 1005.
Statement of the Commission setting the date of May 1, 1966 after which filings must reflect beneficial ownership of securities held by family members.	4516	Feb. 14, 1966	31 FR 3175.
Staff interpretative and no-action positions relating to property rights of an investment company and its investment adviser in the company's name and to the status of arrangement funding qualified Self-Employed Individual's Retirement Plans with life insurance contracts and investment company securities. The staff's comments do not purport to be an official expression of the Commission.	5510	Oct. 8, 1968	33 FR 15650.
Statement of the Director of the Commission's Division of Corporate Regulation re the filing of supplements to investment company prospectuses under the Securities Act of 1933 as a result of changes in stock exchange rules effective December 5, 1968 relating to "customer-directed give ups".	5554	Dec. 3, 1968	33 FR 18576.
Interpretative positions of the Division of Corporate Regulation on questions relating to Rule 22c-1 which was adopted Oct. 16, 1968; text of questions and answers.	5569	Dec. 27, 1968	34 FR 382.
Statement of the Commission setting forth emergency procedures adopted by the Division of Corporate Regulation to expedite processing of registration statements, amendments, and proxy statements.	5632	Mar. 12, 1969	34 FR 5547.
Letter by Philip A. Loomis, Jr., General Counsel for the Commission, explaining obligations of mutual fund managements and brokers with respect to commissions on portfolio brokerage of mutual funds.	.....	Nov. 10, 1969	34 FR 18543.
Commission's statement discussing restricted securities .....	5847	Oct. 21, 1969	35 FR 19989.
Commission's statement that disclosure requirements set forth in release of October 21, 1969 will be applied to lists of portfolio securities set forth not only in registration statements but also in reports to the Commission and to shareholders, in sales literature and in proxy statements.	6026	Apr. 13, 1970	35 FR 19991.
Publication of the Commission's guidelines re applicability of Federal securities law to offer and sale outside the U.S. of shares of registered open-end investment companies.	6082	June 23, 1970	36 FR 12103.
Statement of the Commission reminding reporting companies of obligation re Commission's rules to file reports on a timely basis.	6209	Oct. 15, 1970	35 FR 16733.
Commission's views relating to important questions re the accounting by registered investment companies for investment securities in their financial statements and in the periodic computations of net asset value for the purpose of pricing their shares.	6295	Dec. 23, 1970	35 FR 19986.
Publication of the Commission's procedure to be followed if requests are to be met for no action or interpretative letters and responses thereto to be made available for public use.	6330	Jan. 25, 1971	36 FR 2600.
First in a series of statements by the Commission alerting registered companies, their counsel, and other interested persons re certain changes made in the Investment Company Act of 1940 by Pub. L. 91-547 (1970 Act) such as approval of investment advisory contracts which should be considered in connection with 1971 annual meetings.	6336	Feb. 2, 1971	36 FR 2867.
The Commission's views on the purchase, redemption, or repurchase of fund shares.	6366	Mar. 5, 1971	36 FR 4978.
Second in a series of statements by the Commission calling attention to some important provisions of Pub. L. 91-547 (1970 Act) which in this case require companies that issue periodic payment plans and face-amount certificates to take certain actions.	6392	Mar. 19, 1971	36 FR 5840.
Third in a series of statements by the Commission on problems arising under Pub. L. 91-547 (1970 Act) re registration and regulation of insurance company separate accounts used as funding vehicles for certain employee stock bonus, pension and profit sharing plans.	6430	Apr. 2, 1971	36 FR 7897.
Publication by the Commission of certain important amendments relating to the repeal and modification of certain exemptions by the Investment Company Amendments Act of 1970 (Pub. L. 91-547) and to the pyramiding of investment companies and the regulation of fund holding companies under the same act.	6440	Apr. 6, 1971	36 FR 8729.