

the extent necessary to permit them to impose a deferred sales load on any variable annuity contract participating in such account; provided that the terms of any offer to exchange another contract for the contract are in compliance with the requirements of paragraph (d) or (e) of § 270.11a-2 (Rule 11a-2).

(c) A registered separate account, and any depositor of or principal underwriter for such account, shall be exempt from sections 22(c) and 27(i)(2)(A) of the Act (15 U.S.C. 80a-22(c) and 80a-27(i)(2)(A), respectively) and § 270.22c-1 (Rule 22c-1) to the extent necessary to permit them to deduct from the value of any variable annuity contract participating in such account, upon total redemption of the contract prior to the last day of the year, the full annual fee for administrative services that otherwise would have been deducted on that date.

[48 FR 36098, Aug. 9, 1983, as amended at 85 FR 26102, May 1, 2020]

**§ 270.6c-10 Exemption for certain open-end management investment companies to impose deferred sales loads.**

(a) A company and any exempted person shall be exempt from the provisions of sections 2(a)(32), 2(a)(35), and 22(d) of the Act [15 U.S.C. 80a-2(a)(32), 80a-2(a)(35), and 80a-22(d), respectively] and § 270.22c-1 to the extent necessary to permit a deferred sales load to be imposed on shares issued by the company, *Provided*, that:

(1) The amount of the deferred sales load does not exceed a specified percentage of the net asset value or the offering price at the time of purchase;

(2) The terms of the deferred sales load are covered by the provisions of Rule 2830 of the Conduct Rules of the National Association of Securities Dealers, Inc.; and

(3) The same deferred sales load is imposed on all shareholders, except that scheduled variations in or elimination of a deferred sales load may be offered to a particular class of shareholders or transactions, *Provided*, that the conditions in § 270.22d-1 are satisfied. Nothing in this paragraph (a) shall prevent a company from offering to existing shareholders a new sched-

uled variation that would waive or reduce the amount of a deferred sales load not yet paid.

(b) For purposes of this section:

(1) *Company* means a registered open-end management investment company, other than a registered separate account, and includes a separate series of the company;

(2) *Exempted person* means any principal underwriter of, dealer in, and any other person authorized to consummate transactions in, securities issued by a company; and

(3) *Deferred sales load* means any amount properly chargeable to sales or promotional expenses that is paid by a shareholder after purchase but before or upon redemption.

[61 FR 49016, Sept. 17, 1996]

**§ 270.6c-11 Exchange-traded funds.**

(a) *Definitions.* (1) For purposes of this section:

*Authorized participant* means a member or participant of a clearing agency registered with the Commission, which has a written agreement with the exchange-traded fund or one of its service providers that allows the authorized participant to place orders for the purchase and redemption of creation units.

*Basket* means the securities, assets or other positions in exchange for which an exchange-traded fund issues (or in return for which it redeems) creation units.

*Business day* means any day the exchange-traded fund is open for business, including any day when it satisfies redemption requests as required by section 22(e) of the Act (15 U.S.C. 80a-22(e)).

*Cash balancing amount* means an amount of cash to account for any difference between the value of the basket and the net asset value of a creation unit.

*Creation unit* means a specified number of exchange-traded fund shares that the exchange-traded fund will issue to (or redeem from) an authorized participant in exchange for the deposit (or delivery) of a basket and a cash balancing amount if any.

*Custom basket* means: