

§ 270.19b-1 Frequency of distribution of capital gains.

(a) No registered investment company which is a “regulated investment company” as defined in section 851 of the Internal Revenue Code of 1986 (“Code”) shall distribute more than one capital gain dividend (“distribution”), as defined in section 852(b)(3)(C) of the Code, with respect to any one taxable year of the company, other than a distribution otherwise permitted by this rule or made pursuant to section 855 of the Code which is supplemental to the prior distribution with respect to the same taxable year of the company and which does not exceed 10% of the aggregate amount distributed for such taxable year.

(b) No registered investment company which is not a “regulated investment company” as defined in section 851 of the Code shall make more than one distribution of long-term capital gains, as defined in the Code, in any one taxable year of the company: *Provided*, That a unit investment trust may distribute capital gain dividends received from a “regulated investment company” within a reasonable time after receipt.

(c) The provisions of this rule shall not apply to a unit investment trust (hereinafter referred to as the “Trust”) engaged exclusively in the business of investing in eligible trust securities (as defined in Rule 14a-3(b) (17 CFR 270.14a-3(b)) under this Act); *Provided*, That:

(1) The capital gain distribution is a result of—

(i) An issuer’s calling or redeeming an eligible trust security held by the Trust,

(ii) The sale of an eligible trust security by the Trust to provide funds for redemption of Trust units when the amount received by the Trust for such sale exceeds the amount required to satisfy the redemption distribution,

(iii) The sale of an eligible trust security to maintain qualification of the Trust as a “regulated investment company” under section 851 of the Code,

(iv) Regular distributions of principal and prepayment of principal on eligible trust securities, or

(v) The sale of an eligible trust security in order to maintain the investment stability of the Trust; and

(2) Capital gains distributions are clearly described as such in a report to the unitholder which accompanies each such distribution.

(d) For purposes of paragraph (c) of this section, sales made to maintain the investment stability of the Trust means sales made to prevent deterioration of the value of the eligible trust securities held in the Trust portfolio when one or more of the following factors exist:

(1) A default in the payment of principal or interest on an eligible trust security;

(2) An action involving the issuer of an eligible trust security which adversely affects the ability of such issuer to continue payment of principal or interest on its eligible trust securities; or

(3) A change in market, revenue or credit factors which adversely affects the ability of such issuer to continue payment of principal or interest on its eligible trust securities.

(e) If a registered investment company because of unforeseen circumstances in a particular taxable year proposes to make a distribution which would be prohibited by the provisions of this section, it may file a request with the Commission for authorization to make such a distribution. Such request shall comply with the requirements of §270.0-2 of this chapter and shall set forth the pertinent facts and explain the circumstances which the company believes justify such distribution. The request shall be deemed granted unless the Commission within 15 days after receipt thereof shall deny such request as not being necessary or appropriate in the public interest or for the protection of investors and notify the company in writing of such denial.

(f) A registered investment company may make one additional distribution of long-term capital gains, as defined in the Code, with respect to any one taxable year of the company, which distribution is made, in whole or in part, for the purpose of not incurring any tax under section 4982 of the Code. Such additional distribution may be

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made prior or subsequent to any distribution otherwise permitted by paragraph (a) of this section.

(Secs. 6(c), 19(b) (15 U.S.C. 80a-19(b), and sec. 38(a)))

[36 FR 22901, Dec. 2, 1971, as amended at 44 FR 29647, May 22, 1979; 44 FR 40064, July 9, 1979; 52 FR 42428, Nov. 5, 1987]

§ 270.20a-1 Solicitation of proxies, consents and authorizations.

(a) No person shall solicit or permit the use of his or her name to solicit any proxy, consent, or authorization with respect to any security issued by a registered Fund, except upon compliance with Regulation 14A (§240.14a-1 of this chapter), Schedule 14A (§240.14a-101 of this chapter), and all other rules and regulations adopted pursuant to section 14(a) of the Securities Exchange Act of 1934 that would be applicable to such solicitation if it were made in respect of a security registered pursuant to section 12 of the Securities Exchange Act of 1934. Unless the solicitation is made in respect of a security registered on a national securities exchange, none of the soliciting material need be filed with such exchange.

(b) If the solicitation is made by or on behalf of the management of the investment company, then the investment adviser or any prospective investment adviser and any affiliated person thereof as to whom information is required in the solicitation shall upon request of the investment company promptly transmit to the investment company all information necessary to enable the management of such company to comply with the rules and regulations applicable to such solicitation. If the solicitation is made by any person other than the management of the investment company, on behalf of and with the consent of the investment adviser or prospective investment adviser, then the investment adviser or prospective investment adviser and any affiliated person thereof as to whom information is required in the solicitation shall upon request of the person making the solicitation promptly transmit to such person all information necessary to enable such person to comply with the rules and regulations applicable to the solicitation.

Instruction. Registrants that have made a public offering of securities and that hold security holder votes for which proxies, consents, or authorizations are not being solicited pursuant to the requirements of this section should refer to section 14(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(c)) and the information statement requirements set forth in the rules thereunder.

[25 FR 1865, Mar. 3, 1960, as amended at 37 FR 1472, Jan. 29, 1972; 52 FR 48985, Dec. 29, 1987; 57 FR 1102, Jan. 10, 1992; 59 FR 52700, Oct. 19, 1994]

§§ 270.20a-2—270.20a-4 [Reserved]

§ 270.22c-1 Pricing of redeemable securities for distribution, redemption and repurchase.

(a) No registered investment company issuing any redeemable security, no person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and no principal underwriter of, or dealer in, any such security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security: *Provided, That:*

(1) This paragraph shall not prevent a sponsor of a unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in eligible trust securities (as defined in Rule 14a-3(b) (17 CFR 270.14a-3(b))) from selling or repurchasing Trust units in a secondary market at a price based on the offering side evaluation of the eligible trust securities in the Trust's portfolio, determined at any time on the last business day of each week, effective for all sales made during the following week, if on the days that such sales or repurchases are made the sponsor receives a letter from a qualified evaluator stating, in its opinion, that:

(i) In the case of repurchases, the current bid price is not higher than the offering side evaluation, computed on the last business day of the previous week; and