

**§ 270.0-8**

**17 CFR Ch. II (4-1-03 Edition)**

**§ 270.0-8 Payment of fees.**

All payment of fees shall be made in cash, certified check or by United States postal money order, bank cashier's check or bank money order payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. Payment of fees required by this section shall be made in accordance with the directions set forth in §202.3a of this chapter.

[61 FR 49961, Sept. 24, 1996]

**§ 270.0-9 [Reserved]**

**§ 270.0-10 Small entities under the Investment Company Act for purposes of the Regulatory Flexibility Act.**

(a) *General.* For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 *et seq.*) and unless otherwise defined for purposes of a particular rulemaking, the term *small business* or *small organization* for purposes of the Investment Company Act of 1940 shall mean an investment company that, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year. For purposes of this section:

(1) In the case of a management company, the term *group of related investment companies* shall mean two or more management companies (including series thereof) that:

(i) Hold themselves out to investors as related companies for purposes of investment and investor services; and

(ii) Either:

(A) Have a common investment adviser or have investment advisers that are affiliated persons of each other; or

(B) Have a common administrator; and

(2) In the case of a unit investment trust, the term *group of related investment companies* shall mean two or more unit investment trusts (including series thereof) that have a common sponsor.

(b) *Special rule for insurance company separate accounts.* In determining whether an insurance company separate account is a *small business* or *small*

*entity* pursuant to paragraph (a) of this section, the assets of the separate account shall be cumulated with the assets of the general account and all other separate accounts of the insurance company.

(c) *Determination of net assets.* The Commission may calculate its determination of the net assets of a group of related investment companies based on the net assets of each investment company in the group as of the end of such company's fiscal year.

[63 FR 35514, June 30, 1998]

**§ 270.2a-1 Valuation of portfolio securities in special cases.**

(a) Any investment company whose securities are qualified for sale, or for whose securities application for such qualification has been made, in any State in which the securities owned by such company are required by applicable State law or regulations to be valued at cost or on some other basis different from that prescribed by clause (A) of section 2(a)(41) of the Act for the purpose of determining the percentage of its assets invested in any particular type or classification of securities or in the securities of any one issuer, may, in valuing its securities for the purposes of sections 5 and 12 of the Act, use the same basis of valuation as that used in complying with such State law or regulations in lieu of the method of valuation prescribed by clause (A) of section 2(a)(41) of the Act.

(b) Any open-end company which has heretofore valued its securities at cost for the purpose of qualifying as a "mutual investment company" under the Internal Revenue Code, prior to its amendment by the Revenue Act of 1942, shall henceforth, for the purposes of sections 5 and 12 of the Act, value its securities in accordance with the method prescribed in clause (A) of section 2(a)(41) of the Act unless such company is permitted under paragraph (a) of this section to use a different method of valuation.

(c) A registered investment company which has adopted for the purposes of sections 5 and 12 of the Act a method of valuation permitted by paragraph (a) of this section, shall state in its registration statement filed pursuant to section 8 (54 Stat. 803; 15 U.S.C. 80a-8)

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of the Act, or in a report filed pursuant to section 30 (54 Stat. 836; 15 U.S.C. 80a-30) of the Act, the method of valuation adopted and the facts which justify the adoption of such method. A registered investment company which has adopted for the purposes of sections 5 and 12 of the Act a method of valuation permitted by paragraph (a) of this section, unless it shall have adopted such method for the purpose or partly for the purpose of qualifying as a "mutual investment company" under the Internal Revenue Code, shall continue to use that method until it has notified the Commission of its desire to use a different method, and has received from the Commission permission for such change. Such permission may be made effective on a fixed date or within such reasonable time thereafter as may be deemed advisable under the circumstances.

(d) If at any time it appears that the method of valuation adopted by any company pursuant to paragraph (a) of this section is no longer justified by the facts, the Commission may require a change in the method of valuation within a reasonable period of time either to the method prescribed in clause (A) of section 2(a)(41) of the Act or to some other method permitted by paragraph (a) of this section which is justified by the existing facts.

[Rule N-2A-1, 8 FR 3567, Mar. 24, 1943, as amended at 38 FR 8593, Apr. 4, 1973]

### § 270.2a-2 Effect of eliminations upon valuation of portfolio securities.

During any fiscal quarter in which elimination of securities from the portfolio of an investment company occur, the securities remaining in the portfolio shall, for the purpose of sections 5 and 12 of the Act (54 Stat. 800, 808; 15 U.S.C. 80a-5, 80a-12), be so valued as to give effect to the eliminations in accordance with one of the following methods:

- (a) Specific certificate,
- (b) First in—first out,
- (c) Last in—first out, or
- (d) Average value.

For these purposes, a single method of elimination shall be used consistently with respect to all portfolio securities. In giving effect to eliminations pursu-

ant to this section values shall be computed in accordance with section 2(a)(41)(A) of the Act (54 Stat. 790; 15 U.S.C. 80a-2(a)(41)(A)).

[38 FR 8593, Apr. 4, 1973]

### § 270.2a3-1 Investment company limited partners not deemed affiliated persons.

PRELIMINARY NOTE TO § 270.2a3-1 This § 270.2a3-1 excepts from the definition of affiliated person in section 2(a)(3) (15 U.S.C. 80a-2(a)(3)) those limited partners of investment companies organized in limited partnership form that are affiliated persons solely because they are partners under section 2(a)(3)(D) (15 U.S.C. 80a-2(a)(3)(D)). Reliance on this § 270.2a3-1 does not except a limited partner that is an affiliated person by virtue of any other provision.

No limited partner of a registered management company or a business development company, organized as a limited partnership and relying on § 270.2a19-2, shall be deemed to be an affiliated person of such company, or any other partner of such company, solely by reason of being a limited partner of such company.

[58 FR 45838, Aug. 31, 1993]

### § 270.2a-4 Definition of "current net asset value" for use in computing periodically the current price of redeemable security.

(a) The current net asset value of any redeemable security issued by a registered investment company used in computing periodically the current price for the purpose of distribution, redemption, and repurchase means an amount which reflects calculations, whether or not recorded in the books of account, made substantially in accordance with the following, with estimates used where necessary or appropriate.

(1) Portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company.

(2) Changes in holdings of portfolio securities shall be reflected no later than in the first calculation on the first business day following the trade date.