

Securities and Exchange Commission

§ 270.0-1

Section 270.0-1(a)(7) is also issued under 15 U.S.C. 80a-10(e);

Section 270.0-11 also issued under secs. 8, 24, 30 and 38, Investment Company Act (15 U.S.C. 80a-8, 80a-24, 80a-29 and 80a-37), secs. 6, 7, 8, 10 and 19(a), Securities Act (15 U.S.C. 77f, 77g, 77h, 77j, 77s(a)) and secs. 3(b), 12, 13, 14, 15(d) and 23(a), Exchange Act (15 U.S.C. 78c(b), 78l, 78m, 78n, 78o(d) and 78w(a));

Section 270.6c-9 is also issued under secs. 6(c) (15 U.S.C. 80a-6(c)) and 38(a) (15 U.S.C. 80a-37(a));

Section 270.6c-10 is also issued under sec. 6(c) (15 U.S.C. 80a-6(c));

Section 270.6e-3(T) is also issued under sec. 6(e), 15 U.S.C. 80a-5(e);

Section 270.8b-11 is also issued under 15 U.S.C. 77s, 80a-8, and 80a-37;

Section 270.10e-1 is also issued under 15 U.S.C. 80a-10(e);

Sections 270.12d1-1, 270.12d1-2, and 270.12d1-3 are also issued under 15 U.S.C. 80a-6(c), 80a-12(d)(1)(J), and 80a-37(a).

Section 270.12d3-1 is also issued under 15 U.S.C. 80a-6(c);

Section 270.17a-8 is also issued under 15 U.S.C. 80a-6(c) and 80a-37(a);

Section 270.17d-1 is also issued under 15 U.S.C. 80a-6(c), 80a-17(d), and 80a-37(a);

Section 270.17e-1 is also issued under 15 U.S.C. 80a-6(c), 80a-30(a), and 80a-37(a);

Section 270.17f-5 also issued under sec. 6(c) (15 U.S.C. 80a-6(c));

Section 270.17g-1 is also issued under 15 U.S.C. 80a-6(c), 80a-17(d), 80a-17(g), and 80a-37(a);

Section 270.17j-1 is also issued under secs. 206(4) and 211(a), Investment Advisers Act (15 U.S.C. 80b-6(4) and 80b-11(a));

Section 270.19b-1 is also issued under secs. 6(c) (15 U.S.C. 80a-6(c)), 19 (a) and (b) (15 U.S.C. 80a-19 (a) and (b)), and 38(a) (15 U.S.C. 80a-37(a));

Section 270.22c-1 also issued under secs. 6(c), 22(c), and 38(a) (15 U.S.C. 80a-6(c), 80a-22(c), and 80a-37(a));

Section 270.23c-3 also issued under 15 U.S.C. 80a-23(c).

Section 270.24f-2 also issued under 15 U.S.C. 80a-24(f)(4).

Section 270.30a-1 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29.

Section 270.30a-2 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, 80a-29, 7202, and 7241; and 18 U.S.C. 1350, unless otherwise noted.

Section 270.30a-3 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29, and secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

Section 270.30b1-1 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29.

Section 270.30b2-1 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29, and secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

Section 270.30d-1 is also issued under 15 U.S.C. 78m, 78o(d), 80a-8, and 80a-29, and secs. 3(a) and 302, Pub. L. 107-204, 116 Stat. 745.

Section 270.30e-1 is also issued under 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78l, 78m, 78n, 78o(d), 78w(a), 80a-8, 80a-29, and 80a-37;

Section 270.31a-2 is also issued under 15 U.S.C. 80a-30.

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S-T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S-T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

§ 270.0-1 Definition of terms used in this part.

(a) As used in the rules and regulations prescribed by the Commission pursuant to the Investment Company Act of 1940, unless the context otherwise requires:

(1) The term *Commission* means the Securities and Exchange Commission.

(2) The term *act* means the Investment Company Act of 1940.

(3) The term *section* refers to a section of the act.

(4) The terms *rule* and *regulations* refer to the rules and regulations adopted by the Commission pursuant to the Act, including the forms for registration and reports and the accompanying instructions thereto.

(5) The term *administrator* means any person who provides significant administrative or business affairs management services to an investment company.

(6)(i) A person is an *independent legal counsel* with respect to the directors who are not interested persons of an investment company ("disinterested directors") if:

(A) A majority of the disinterested directors reasonably determine in the exercise of their judgment (and record the basis for that determination in the minutes of their meeting) that any representation by the person of the company's investment adviser, principal underwriter, administrator ("management organizations"), or any of their control persons, since the beginning of the fund's last two completed fiscal

years, is or was sufficiently limited that it is unlikely to adversely affect the professional judgment of the person in providing legal representation to the disinterested directors; and

(B) The disinterested directors have obtained an undertaking from such person to provide them with information necessary to make their determination and to update promptly that information when the person begins to represent, or materially increases his representation of, a management organization or control person.

(ii) The disinterested directors are entitled to rely on the information obtained from the person, unless they know or have reason to believe that the information is materially false or incomplete. The disinterested directors must re-evaluate their determination no less frequently than annually (and record the basis accordingly), except as provided in paragraph (iii) of this section.

(iii) After the disinterested directors obtain information that the person has begun to represent, or has materially increased his representation of, a management organization (or any of its control persons), the person may continue to be an independent legal counsel, for purposes of paragraph (a)(6)(i) of this section, for no longer than three months unless during that period the disinterested directors make a new determination under that paragraph.

(iv) For purposes of paragraphs (a)(6)(i)-(iii) of this section:

(A) The term *person* has the same meaning as in section 2(a)(28) of the Act (15 U.S.C. 80a-2(a)(28)) and, in addition, includes a partner, co-member, or employee of any person; and

(B) The term *control person* means any person (other than an investment company) directly or indirectly controlling, controlled by, or under common control with any of the investment company's management organizations.

(7) *Fund governance standards.* The board of directors of an investment company ("fund") satisfies the *fund governance standards* if:

(i) At least seventy-five percent of the directors of the fund are not interested persons of the fund ("disinterested directors") or, if the fund has

three directors, all but one are disinterested directors;

(ii) The disinterested directors of the fund select and nominate any other disinterested director of the fund;

(iii) Any person who acts as legal counsel for the disinterested directors of the fund is an independent legal counsel as defined in paragraph (a)(6) of this section;

(iv) A disinterested director serves as chairman of the board of directors of the fund, presides over meetings of the board of directors and has substantially the same responsibilities as would a chairman of a board of directors;

(v) The board of directors evaluates at least once annually the performance of the board of directors and the committees of the board of directors, which evaluation must include a consideration of the effectiveness of the committee structure of the fund board and the number of funds on whose boards each director serves;

(vi) The disinterested directors meet at least once quarterly in a session at which no directors who are interested persons of the fund are present; and

(vii) The disinterested directors have been authorized to hire employees and to retain advisers and experts necessary to carry out their duties.

(b) Unless otherwise specifically provided, the terms used in the rules and regulations in this part shall have the meaning defined in the Act. The terms "EDGAR," "EDGAR Filer Manual," "electronic filer," "electronic filing," "electronic format," "electronic submission," "paper format," and "signature" shall have the meanings assigned to such terms in Regulation S-T—General Rules for Electronic Filings (Part 232 of this chapter).

(c) A rule or regulation which defines a term without express reference to the act or to the rules and regulations, or to a portion thereof, defines such terms for all purposes as used both in the act and in the rules and regulations in this part, unless the context otherwise requires.

(d) Unless otherwise specified or the context otherwise requires, the term "prospectus" means a prospectus meeting the requirements of section 10(a) of the Securities Act of 1933 as amended.

(e) Definition of separate account and conditions for availability of exemption under §§ 270.6c-6, 270.6c-7, 270.6c-8, 270.11a-2, 270.14a-2, 270.15a-3, 270.16a-1, 270.22c-1, 270.22d-3, 270.22e-1, 270.26a-1, 270.26a-2, 270.27a-1, 270.27a-2, 270.27a-3, 270.27c-1, and 270.32a-2 of this chapter.

(1) As used in the rules and regulations prescribed by the Commission pursuant to the Investment Company Act of 1940, unless otherwise specified or the context otherwise requires, the term "separate account" shall mean an account established and maintained by an insurance company pursuant to the laws of any state or territory of the United States, or of Canada or any province thereof, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains or losses of the insurance company and the term "variable annuity contract" shall mean any accumulation or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either prior or subsequent to annuitization, or both, varies according to the investment experience of the separate account in which the contract participates.

(2) As conditions to the availability of exemptive Rules 6c-6, 6c-7, 6c-8, 11a-2, 14a-2, 15a-3, 16a-1, 22c-1, 22d-3, 22e-1, 26a-1, 26a-2, 27a-1, 27a-2, 27a-3, 27c-1, and 32a-2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out

of any other business which the insurance company may conduct.

[Rule N-1, 5 FR 4316, Oct. 31, 1940, as amended at 19 FR 6730, Oct. 20, 1954; 30 FR 829, Jan. 27, 1965; 48 FR 36098, Aug. 9, 1983; 50 FR 42682, Oct. 22, 1985; 58 FR 14859, Mar. 18, 1993; 66 FR 3757, Jan. 16, 2001; 69 FR 46389, Aug. 2, 2004]

§ 270.0-2 General requirements of papers and applications.

(a) *Filing of papers.* All papers required to be filed with the Commission pursuant to the Act or the rules and regulations thereunder shall, unless otherwise provided by the rules and regulations in this part, be delivered through the mails or otherwise to the Securities and Exchange Commission, Washington, D.C. 20549. Except as otherwise provided by the rules and regulations, the date on which papers are actually received by the Commission shall be the date of filing thereof. If the last day for the timely filing of such papers falls on a Saturday, Sunday, or holiday, such papers may be filed on the first business day following.

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant but the other four copies may have facsimile or typed signatures. Such applications should be on paper no larger than 8½×11 inches in size. To the extent that the reduction of larger documents would render them illegible, such documents may be filed on paper larger than 8½×11 inches in size. The left margin should be at least 1½ inches wide and, if the application is bound, it should be bound on the left side. The application must be typed, printed, copied or prepared by any process which, in the opinion of the commission, produces copies suitable for microfilming. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying. Every application for an order under any provision of the Act and every amendment to such application shall be submitted to the Commission in