

## **Federal Securities Laws and Regulations, Regulation, Reg. §270.19b-1., Securities and Exchange Commission, Frequency of Distribution of Capital Gains**

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- (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 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), 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 rule, it may file

a request with the Commission for authorization to make such a distribution. Such request shall comply with the requirements of Rule 0-2 under the Act 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 made prior or subsequent to any distribution otherwise permitted by paragraph (a).

[As last amended in Release No. IC-16094, October 29, 1987, effective November 5, 1987, 52 F.R. 42426.]