

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER—Continued

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AUTHORITY: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a-8, 80a-24, and 80a-29, unless otherwise noted.

SOURCE: 33 FR 19003, Dec. 20, 1968, unless otherwise noted.

§ 274.0-1 Availability of forms.

(a) This part identifies and describes the forms prescribed for use under the Investment Company Act of 1940.

(b) Any person may obtain a copy of any form prescribed for use in this part by written request to the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Any person may inspect the forms at this address and at the Commission's regional and district offices. (See §200.11 of this chapter for the addresses of SEC regional and district offices)

[46 FR 17757, Mar. 20, 1981, as amended at 47 FR 26820, June 22, 1982; 59 FR 5946, Feb. 9, 1994]

Subpart A—Registration Statements

§ 274.5 Form N-5, for registration statement of small business investment company under the Securities Act of 1933 and the Investment Company Act of 1940.

This form shall be used for the registration statement under both sections 6 and 7 of the Securities Act of 1933 (15 U.S.C. 77f, 77g) and section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-8(b)), by a small business investment company which is licensed as such under the Small Business Investment Act of 1958 or which has received preliminary approval of the Small Business Administration and has been notified by that Administration that it may submit a license application.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-5, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.10 Form N-8A, for notification of registration.

This form shall be used as the notification of registration filed with the Commission pursuant to section 8(a) of the Investment Company Act of 1940.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-8A, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.11 Form N-1, registration statement of open-end management investment companies.

Form N-1 shall be used as the registration statement to be filed pursuant to Section 8(b) of the Investment Company Act of 1940 by open-end management investment companies that are separate accounts of insurance companies. This form shall also be used for registration under the Securities Act of 1933 of the securities of all such companies. This form is not applicable for small business investment companies which register pursuant to §§ 239.24 and 274.5 of this chapter.

[49 FR 32060, Aug. 10, 1984, as amended at 59 FR 52701, Oct. 19, 1994]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-1, see the List of

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CFR Sections Affected in the Finding Aids section of this volume.

§ 274.11A Form N-1A, registration statement of open-end management investment companies.

Form N-1A shall be used as the registration statement to be filed pursuant to section 8(b) of the Investment Company Act of 1940 by open-end management investment companies other than separate accounts of insurance companies or companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. This form shall be used for registration under the Securities Act of 1933 of the securities of all open-end management investment companies other than registered separate accounts of insurance companies. This form is not applicable for small business investment companies which register pursuant to § 293.24 and § 274.5 of this chapter.

[48 FR 37940, Aug. 22, 1983, as amended at 59 FR 52701, Oct. 19, 1994]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-1A, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.11a-1 Form N-2, registration statement of closed end management investment companies.

This form shall be used as the registration statement to be filed pursuant to section 8(b) of the Investment Company Act of 1940 by closed end management investment companies other than companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. This form also shall be used for registration under the Securities Act of 1933 of the securities of all closed end management investment companies. This form is not applicable for small business investment companies which register pursuant to §§ 239.24 and 274.5 of this chapter.

[43 FR 39553, Sept. 5, 1978, as amended at 59 FR 52701, Oct. 19, 1994]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-2, see the List of CFR Sections Affected in the Finding Aids section of this volume.

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§ 274.11b Form N-3, registration statement of separate accounts organized as management investment companies.

Form N-3 shall be used as the registration statement to be filed pursuant to section 8(b) of the Investment Company Act of 1940 by separate accounts that offer variable annuity contracts to register as management investment companies. This form shall also be used for registration under the Securities Act of 1933 of the securities of such separate accounts (§ 239.17a of this chapter).

[50 FR 26161, June 25, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-3, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.11c Form N-4, registration statement of separate accounts organized as unit investment trusts.

Form N-4 shall be used as the registration statement to be filed pursuant to section 8(b) of the Investment Company Act of 1940 by separate accounts that offer variable annuity contracts to register as unit investment trusts. This form shall also be used for registration under the Securities Act of 1933 of the securities of such separate accounts (§ 239.17b of this chapter).

[50 FR 26161, June 25, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-4, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.12 Form N-8B-2, registration statement of unit investment trusts which are currently issuing securities.

(a) This form shall be used as the registration statement to be filed, pursuant to section 8(b) of the Investment Company Act of 1940, by unit investment trusts which are currently issuing securities, including unit investment trusts which are issuers of periodic payment plan certificates.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-8B-2, see the List of CFR Sections Affected in the Finding Aids section of this volume.

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§ 274.13 Form N-8B-3, registration statement of unincorporated management investment companies currently issuing periodic payment plan certificates.

(a) This form shall be used for registration statement to be filed, pursuant to section 8(b) of the Investment Company Act of 1940, by unincorporated management investment companies currently issuing periodic payment plan certificates.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-8B-3, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.14 Form N-8B-4, registration statements of face-amount certificate companies.

This form shall be used for registration statements of face-amount certificate companies registered under the Investment Company Act of 1940.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-8B-4, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.15 Form N-6F, notice of intent to elect to be subject to sections 55 through 65 of the Investment Company Act of 1940.

This form shall be used by a company that would be excluded from the definition of an investment company by section 3(c)(1) of the Investment Company Act of 1940 [15 U.S.C. 80a-3(c)(1)], except that at the time of filing it proposes to make a public offering of its securities as a business development company, to notify the Securities and Exchange Commission that the company intends in good faith to file, within 90 days, a notification of election to become subject to the provisions of sections 55 through 65 of the Investment Company Act of 1940 [15 U.S.C. 80a-54 through 64]. The text of the form is set forth in the appendix to this release.¹

[47 FR 10520, Mar. 11, 1982]

¹A copy of Form N-6F accompanied this release as originally filed in the Office of the Federal Register.

§ 274.24 Form 24F-2, annual filing of securities sold pursuant to registration of certain investment company securities.

Form 24F-2 shall be used as the annual report filed by face amount certificate companies, open-end management companies, and unit investment trusts pursuant to §270.24f-2 of this chapter for reporting securities sold during the fiscal year.

[62 FR 47940, Sept. 12, 1997]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form 24F-2, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.51 Form N-18F-1, for notification of election pursuant to § 270.18f-1 of this chapter.

(a) This form shall be filed with the Commission in triplicate as the notification of election pursuant to §270.18f-1 of this chapter by a registered open-end investment company to commit itself to pay in cash all redemptions requested by a shareholder of record as provided in said section.

[36 FR 11920, June 23, 1971 as amended at 36 FR 20504, Oct. 23, 1971; 39 FR 36003, Oct. 7, 1974; 59 FR 52701, Oct. 19, 1994]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-18F-1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.53 Form N-54A, notification of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed pursuant to section 54(a) of the Act.

This form shall be used pursuant to section 54(a) of the Investment Company Act of 1940 [15 U.S.C. 80a-53(a)] by a company of the type defined in sections 2(a)(48) (A) and (B) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48) (A) and (B) to notify the Securities and Exchange Commission of its election to be subject to the provisions of sections 55 through 65 of said Act [15 U.S.C. 80a-54 through 64].

The text of the form is set forth in the appendix to this release.²

[47 FR 10520, Mar. 11, 1982]

²A copy of Form N-54A accompanied this release as originally filed in the Office of the Federal Register.

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§ 274.54 Form N-54C, notification of withdrawal of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed pursuant to section 54(c) of the Investment Company Act of 1940.

This form shall be used pursuant to section 54(c) of the Investment Company Act of 1940 [15 U.S.C. 80a-53(c)] by a business development company to file a notice of withdrawal of its election under section 54(a) of the Investment Company Act of 1940 [15 U.S.C. 80a-53(a)].

The text of the form is set forth in the appendix to this release.³
[47 FR 10520, Mar. 11, 1982]

Subpart B—Forms for Reports

§ 274.101 Form N-SAR, semi-annual report of registered investment companies.

This form shall be used by registered investment companies for semi-annual or annual reports to be filed pursuant to rule 30a-1 (17 CFR 270.30a-1) or 30b1-1 (17 CFR 270.30b1-1) in satisfaction of the requirement of section 30(a) of the Investment Company Act of 1940 that every registered investment company must file annually with the Commission such information, documents and reports as investment companies having securities registered on a national securities exchange are required to file annually pursuant to section 13(a) of the Securities Exchange Act of 1934 and the rules and regulations thereunder (same as § 249.330 of this chapter).

[50 FR 1450, Jan. 11, 1985, as amended at 54 FR 10322, Mar. 13, 1989; 59 FR 52701, Oct. 19, 1994]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-SAR, see the List of CFR Sections Affected in the Finding Aids section of this volume.

³A copy of Form N-54C accompanied this release as originally filed in the Office of the Federal Register.

§§ 274.102—274.126 [Reserved]

§ 274.127d-1 Form N-27D-1 accounting of segregated trust account.

This form shall be completed and filed with the Commission as a report required by § 270.27d-1 of this chapter by each depositor or principal underwriter, within 15 days after the close of each quarter during the first 2 years after the effective date of § 270.27d-1 of this chapter, and thereafter this form shall be filed annually on or before January 31 of the following calendar year. Each investment company for which a segregated trust account is established shall be listed on the cover page. Two copies of the form, plus an additional copy for each registered investment company covered, shall be filed and the filing shall be signed by an authorized representative of the depositor or underwriter.

[36 FR 24056, Dec. 18, 1971]

§ 274.127e-1 Form N-27E-1, notice to periodic payment plan certificate holders of 18-month surrender rights with respect to periodic payment plan certificates.

This form is to be reproduced by the issuer or any depositor of or underwriter for such issuer and will not be available at the Securities and Exchange Commission. For required text of the form see paragraph (f) of § 270.27e-1 of this chapter.

[36 FR 13139, July 15, 1971]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-27E-1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.127f-1 Form N-27F-1, notice to periodic payment plan certificate holders of 45-day withdrawal right with respect to periodic payment plan certificates.

This form is to be reproduced by the issuer or any depositor of or underwriter for such issuer and will not be available at the Securities and Exchange Commission. For required text

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of the form see paragraph (d) of § 270.27f-1 of this chapter.

[45 FR 17958, Mar. 20, 1980]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-27F-1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.200 Form N-17D-1, report filed by small business investment company (SBIC) registered under the Investment Company Act of 1940 and an affiliated bank, with respect to investments by the SBIC and the bank, submitted pursuant to paragraph (d)(3) of § 270.17d-1 of this chapter.

This form shall be filed pursuant to Rule 17d-2 (§ 270.17d-2 of this chapter) as the report required, under subparagraph (d)(3) of Rule 17d-1 (§ 270.17d-1(d)(3) of this chapter), to be filed, either jointly or separately, by a small business investment company (SBIC) licensed as such under the Small Business Investment Act of 1958, and by a bank which is an affiliated person of either the SBIC or of an affiliated person of the SBIC, with respect to investments in a small business concern by the SBIC and the bank.

Subpart C—Forms for Other Statements

§ 274.201 Form N-23C-1, statement by registered closed-end investment company with respect to purchases of its own securities pursuant to Rule 23c-1 during the last calendar month.

This form shall be filed, pursuant to subparagraph (a)(11) of Rule 23c-1 (§ 270.23c-1(a)(11) of this chapter) and section 23(c) of the Investment Company Act of 1940, by a registered closed-end investment company for reporting monthly purchases of securities of which it is the issuer, on or before the tenth day of the calendar month following the month in which the purchase occurs; but no report need be filed for any month in which there have been no such purchases.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-23C-1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.202 Form 3, initial statement of beneficial ownership of securities.

This form shall be filed pursuant to Rule 30f-1 (§ 270.30f-1 of this chapter) for initial statements of beneficial ownership of securities required to be filed pursuant to section 30(f) of the Investment Company Act of 1940. (Same as § 249.103 of this chapter.)

§ 274.203 Form 4, statement of changes in beneficial ownership of securities.

This form shall be filed pursuant to Rule 30f-1 (§ 270.30f-1 of this chapter) for statements of changes in beneficial ownership of securities required to be filed pursuant to section 30(f) of the Investment Company Act of 1940. (Same as § 249.104 of this chapter.)

§ 274.218 Form N-8F, for application by certain registered investment companies applying for orders pursuant to section 8(f) of the Investment Company Act of 1940 declaring that such a company has ceased to be an investment company.

This form shall be used as the application for an order of the Commission pursuant to section 8(f) of the Act in cases where the applicant (a) has distributed substantially all of its assets to its shareholders, and has effected, or is in the process of effecting, a winding-up of its affairs; or (b) has never made a public offering of its securities, has not more than one hundred securityholders for the purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind; or (c) has (1) sold substantially all of its assets to another registered investment company, or (2) merged into or consolidated with another registered investment company.

The text of Form N-8F will be set forth in its entirety as an appendix to this release when published in the SEC Docket.¹ Copies of Form N-8F will also be available from: Publications Section, Securities and Exchange Commission, Washington, DC 20549.

¹ A copy of Form N-8F accompanied this release as originally filed in the Office of the Federal Register.

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[43 FR 21665, May 19, 1978]

§ 274.219 Form N-17f-1, cover page for each certificate of accounting of securities and similar investments of a management investment company in the custody of a member of a national securities exchange, filed pursuant to rule 17f-1.

[54 FR 32049, Aug. 4, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-17f-1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.220 Form N-17f-2, cover page for each certificate of accounting of securities and similar investments in the custody of a registered management investment company, filed pursuant to rule 17f-2.

[54 FR 32049, Aug. 4, 1989]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-17f-2, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.221 Form N-23c-3, Notification of repurchase offer.

Form N-23c-3 shall be filed with copies of notifications of repurchase offers submitted to the Commission as required under rule 23c-3 (§270.23c-3 of this chapter).

[58 FR 19345, Apr. 14, 1993]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-23c-3, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Subpart D—Forms for Exemptions

AUTHORITY: Secs. 6(c), (15 U.S.C. 80a-6(c)), 6(e), (15 U.S.C. 80a-6(e)), 38(a), 15 U.S.C. 80a-37(a) of the Act.

§ 274.301 Notification of claim of exemption pursuant to Rule 6e-2 or Rule 6e-3(T) under the Investment Company Act.

This form shall be filed with the Commission as required by §270.6e-2 or §270.6e-3(T) of this chapter by each insurance company with respect to each separate account for which exemption is claimed pursuant to §270.6e-2 or §270.6e-3(T).

[49 FR 47228, Dec. 3, 1984]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-6EI-1, see the List

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of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.302 Form N-27I-1, notice of right of withdrawal and refund for variable life insurance contractholders required pursuant to Rule 6e-2 (§ 270.6e-2 of this chapter).

[41 FR 47032, Oct. 27, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-27I-1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.303 Form N-27I-2, notice of withdrawal right and statement of charges for variable life insurance contractholders required pursuant to Rule 6e-2 (§ 270.6e-2 of this chapter).

[41 FR 47032, Oct. 27, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form N-27I-2, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Subpart E—Forms for Electronic Filing

SOURCE: 50 FR 40485, Oct. 4, 1985, unless otherwise noted.

§ 274.401 Form ET, transmittal form for electronic format documents on magnetic tape or diskette to be filed on the EDGAR system.

This form shall accompany electronic filings submitted on magnetic tape or diskette under the EDGAR system.

[57 FR 18221, Apr. 29, 1992]

§ 274.402 Form ID, uniform application for access codes to file on EDGAR.

(a) Form ID is to be used by registrants, third party filers, or their agents for the purpose of requesting assignment of access codes to permit filing on EDGAR, as follows:

(1) Central Index Key (CIK)—uniquely identifies each filer, filing agent, and training agent.

(2) CIK Confirmation Code (CCC)—used in the header of a filing in conjunction with the CIK of the filer to ensure that the filing has been authorized by the filer.

(3) Password (PW)—allows a filer, filing agent or training agent to log on to the EDGAR system, submit filings, and change its CCC.

(4) Password Modification Authorization Code (PMAC)—allows a filer, filing agent or training agent to change its Password.

(b) Form ID also may be used for the purpose of requesting a reassignment of their CCC, PW and PMAC.

[57 FR 18221, Apr. 29, 1992]

§ 274.403 Form SE, form for submission of paper format exhibits by electronic filers.

This form shall be used by an electronic filer for the submission of any paper format document relating to an otherwise electronic filing, as provided in rule 311 of Regulation S-T (§232.311 of this chapter).

[58 FR 14861, Mar. 18, 1993]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form SE, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 274.404 Form TH—Notification of reliance on temporary hardship exemption.

Form TH shall be filed by any electronic filer who submits to the Commission, pursuant to a temporary hardship exemption, a document in paper format that otherwise would be required to be submitted electronically, as prescribed by rule 201(a) of Regulation S-T (§232.201(a) of this chapter).

[58 FR 14861, Mar. 18, 1993]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form TH, see the List of CFR Sections Affected in the Finding Aids section of this volume.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

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275.0-2 Consent to service of process to be furnished by non-resident investment advisers and by non-resident investment general partners or managing agents of investment advisers.

275.0-3 References to rules and regulations.

275.0-4 General requirements of papers and applications.

275.0-5 Procedure with respect to applications and other matters.

275.0-6 Incorporation by reference in applications.

275.0-7 Small entities for purposes of the Regulatory Flexibility Act.

275.202 (a)(1)-1 Certain transactions not deemed assignments.

275.203-1 Application for registration of investment adviser.

275.203-2 Withdrawal from registration.

275.203-3 [Reserved]

275.203 (b)(3)-1 Definition of “client” of an investment adviser.

274.203A-1 Eligibility for Commission registration.

275.203A-2 Exemptions from prohibition on Commission registration.

275.203A-3 Definitions.

275.203A-4 Investment advisers registered with a State securities commission.

275.203A-5 Transition rules.

275.204-1 Amendments to application for registration.

275.204-2 Books and records to be maintained by investment advisers.

275.204-3 Written disclosure statements.

275.205-1 Definition of “investment performance” of an investment company and “investment record” of an appropriate index of securities prices.

275.205-2 Definition of “specified period” over which the asset value of the company or fund under management is averaged.

275.205-3 Exemption from the compensation prohibition of section 205(a)(1) for registered investment advisers.

275.206 (3)-1 Exemption of investment advisers registered as broker-dealers in connection with the provision of certain investment advisory services.

275.206 (3)-2 Agency cross transactions for advisory clients.

275.206 (4)-1 Advertisements by investment advisers.

275.206 (4)-2 Custody or possession of funds or securities of clients.

275.206 (4)-3 Cash payments for client solicitations.

275.206 (4)-4 Financial and disciplinary information that investment advisers must disclose to clients.

275.222-1 Definitions.

275.222-2 Definition of “client” for purposes of the national de minimis standard.

AUTHORITY: 15 U.S.C. 80b-2(a)(17), 80b-3, 80b-4, 80b-6(4), 80b-6A, 80b-11, unless otherwise noted.

Section 275.203A-1 is also issued under 15 U.S.C. 80b-3A.

Section 275.203A-2 is also issued under 15 U.S.C. 80b-3A.

Section 275.204-2 is also issued under 15 U.S.C. 80b-6.