

Securities and Exchange Commission

§ 270.18f-1

(2) A Fund or investment adviser must maintain a record of any decision, and the reasons supporting the decision, to approve the acquisition by investment personnel of securities under paragraph (e), for at least five years after the end of the fiscal year in which the approval is granted.

[64 FR 46834, Aug. 27, 1999; 65 FR 12943, Mar. 10, 2000; 69 FR 41707, July 9, 2004]

§ 270.18c-1 Exemption of privately held indebtedness.

The issuance or sale of more than one class of senior securities representing indebtedness by a small business investment company, licensed under the Small Business Investment Act of 1958, shall not be prohibited by section 18(c) so long as such small business investment company does not have outstanding any publicly held indebtedness, and all securities of any such class are (a) privately held by the Small Business Administration, or banks, insurance companies or other institutional investors, (b) not intended to be publicly distributed, and (c) not convertible into, exchangeable for, or accompanied by any option to acquire, any equity security.

[26 FR 11240, Nov. 29, 1961]

§ 270.18c-2 Exemptions of certain debentures issued by small business investment companies.

(a) The issuance or sale of any class of senior security representing indebtedness by a small business investment company licensed under the Small Business Investment Act of 1958 shall not be prohibited by section 18(c) of the Act provided such senior security representing indebtedness is (1) not convertible into, exchangeable for, or accompanied by an option to acquire any equity security; (2) fully guaranteed as to timely payment of all principal and interest by the Small Business Administration and backed by the full faith and credit of the United States; and (3) subordinated to any other debt securities not issued pursuant to this section or, if such security is not so subordinated, that such security, according to its own terms, will not be preferred over any other unsecured debt securities in the payment of principal and interest: *And further provided*, That all

other debt securities then outstanding issued by such small business investment company were issued as permitted by § 270.18c-1 or this section.

(b) Any security issued and sold as permitted by paragraph (a) of this section shall be deemed for purposes of § 270.18c-1 to be privately held by the Small Business Administration and for purposes of § 270.18c-1 shall not be deemed to be publicly held outstanding indebtedness.

(c) The issuance or sale of any security as permitted by paragraph (a) of this section shall not be deemed to be a sale to any person other than the Small Business Administration by any small business investment company licensed under the Small Business Investment Company Act of 1958 which is exempt from any provision of the Investment Company Act, if such exemption is conditioned on such company not offering or selling its securities to any person other than the Small Business Administration.

(Secs. 6(c), 38(a), 54 Stat. 800, 841, 15 U.S.C. 80a-6(c), 80a-37(a))

[37 FR 7590, Apr. 18, 1972]

§ 270.18f-1 Exemption from certain requirements of section 18(f)(1) (of the Act) for registered open-end investment companies which have the right to redeem in kind.

(a) A registered open-end investment company which has the right to redeem securities of which it is the issuer in assets other than cash may file with the Commission at any time a notification of election on Form N-18F-1 (§ 274.51 of this chapter) committing itself to pay in cash all requests for redemption by any shareholder of record, limited in amount with respect to each shareholder during any 90-day period to the lesser of

(1) \$250,000 or

(2) 1 percent of the net asset value of such company at the beginning of such period.

(b) An election pursuant to paragraph (a) of this section:

(1) Shall be described in either the prospectus or the Statement of Additional Information, at the discretion of the investment company, and