§ 270.27d–2

(a) Any depositor of or principal underwriter for the issuer of a periodic payment plan certificate sold subject to section 27(d) or 27(f) of the Act, or both, shall be exempt from the requirements of §270.27d–1 if an insurance company (as defined in section 2(a)(17) of the Act) undertakes in writing to guarantee the performance of all obligations of such depositor or principal underwriter pursuant to sections 27(d) and 27(f) of the Act and paragraph (b) of this section: Provided, however, That: (1) Such insurance company at all times shall have (i) combined capital paid-up, gross paid in and contributed surplus and unassigned surplus, if a stock company, or (ii) unassigned surplus, if a mutual company, at least equal to the larger of (a) $1 million or (b) 200 percent of the amount of the total refund obligation of the depositor or underwriter pursuant to sections 27(d) and 27(f) (of the Act) less any liability reserve established by such insurance company to meet such obligations; and
Securities and Exchange Commission § 270.27e–1

(2) Such depositor or underwriter shall file or cause to be filed with the Commission as an exhibit to the registration statement or any amendment thereto pursuant to the Securities Act of 1933 of the registered investment company issuing periodic payment plan certificates (i) a copy of such written undertaking, and any amendment thereto, (ii) an annual statement certified by a responsible officer of the insurance company indicating that at least on a monthly basis throughout its fiscal year the insurance company has met the requirements of the proviso in paragraph (a)(1) of this section, and (iii) a Statement of Financial Condition (Balance Sheet) of the insurance company certified by an independent public accountant. Such balance sheet shall be filed at least annually, within 90 days after the close of the insurance company’s fiscal year.

(b) The refunds required to be made to certificate holders pursuant to sections 27(d) and 27(f) (of the Act) shall be paid in cash not more than 7 days from the date the certificate is received in proper form by the custodian bank or such other paying agent as may be designated under the periodic payment plan.

[36 FR 13137, July 15, 1971]

§ 270.27e–1 Requirements for notice to be mailed to certain purchasers of periodic payment plan certificates sold subject to section 27(d) of the Act.

(a) The notice required by section 27(e) of the Act shall be sent by first class mail and shall be accompanied by a written instruction sheet and a return form to be used in connection with the exercise of the surrender right described in the notice. No other written or graphic material may be included with such notice.

(b) In the event that regular payments throughout the first 18 months of the plan are required less frequently than monthly, such a notice shall be mailed to any certificate holder who has missed any payment or payments equal to or greater in amount than the amount of payments which, if missed, would have required the mailing of a notice if equal monthly payments had been required during such 15- or 18-month periods.

(c) Any payment not made within 31 days after it is due shall be deemed a missed payment whether or not an equivalent payment is made subsequently by the certificate holder.

(d) In the event any such notice is not mailed prior to 15 days before the expiration of the 18th month, the certificate holder shall have 15 days from the date such notice is mailed within which to exercise the right of surrender described therein. Nothing herein contained shall require a second notice to be mailed to any certificate holder who has been mailed a notice within 30 days following 15 months after the issuance of his certificate.

(e) Notwithstanding the requirements of section 27(e) of the Act, no notice need be mailed to a certificate holder if, at the time such notice would be required to be mailed, he would not be entitled to receive any refund of sales loading upon surrender of his certificate.

(f) Form N–27E–1 is hereby prescribed to inform certificate holders of their right to surrender their certificates pursuant to section 27(d) of the Act. The text of Form N–27E–1 is as follows:

FORM N–27E–1—NOTICE TO PERIODIC PAYMENT PLAN CERTIFICATE HOLDERS OF 8 MONTHS SURRENDER RIGHTS WITH RESPECT TO PERIODIC PAYMENT PLAN CERTIFICATES

IMPORTANT

(Date of mailing)

Re: (1) ______.

Dear (2) ______: This notice is required to be sent to all purchasers of plan certificates pursuant to laws administered by the U.S. Securities and Exchange Commission. You should read it carefully and retain it with your financial records.

You have missed (3) ______ after your (4) ______ plan certificate was issued. Until (5) ______ you will be entitled to surrender your plan certificate and receive, in addition to the value of your account on the date your certificate is received, a refund of that portion of the sales charges you have paid in excess of 15 percent of the gross payments under your plan.

For example, if your certificate had been received for surrender (6) ______ you would

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2See the General Instructions to Form N–27E–1 in paragraph (f) of §270.27e–1 of this chapter, 36 FR 13136.