

§ 270.22c-1 Pricing of redeemable securities for distribution, redemption and repurchase.

(a) *Forward pricing required.* It is unlawful for any registered investment company issuing redeemable securities ("fund"), its principal underwriter, and any dealer to sell, redeem, or repurchase a redeemable security issued by the fund at a price other than the price based on the current net asset value established as of the next pricing time after the fund, its designated transfer agent, or a registered clearing agency receives an order to purchase or redeem the security.

(1) *Time.* The fund's board of directors must initially set the time or times during the day as of which the current net asset value of the fund's redeemable securities must be calculated, and may make and approve any changes the board deems necessary.

(2) *Frequency.* The fund must calculate the current net asset value of any redeemable security at least once daily, Monday through Friday, at the specific time or times during the day that the fund's board of directors sets, except on:

(i) Days on which changes in the value of the fund's portfolio securities will not materially affect the current net asset value of the fund's redeemable securities;

(ii) Days during which the fund, its designated transfer agent, and registered clearing agency receives no order to purchase or redeem the fund's redeemable securities; or

(iii) Customary national business holidays described or listed in the prospectus and local and regional business holidays listed in the prospectus.

(b) *Exceptions permitted.*

Notwithstanding paragraph (a) of this section:

(1) *Emergencies.* (i) The fund may deem an order to have been received by the fund, its designated transfer agent, or a registered clearing agency immediately before the applicable pricing time if:

(A) An emergency prevents a dealer (or any agent of the dealer) from timely transmitting the orders to the fund, its designated transfer agent, or a registered clearing agency; and the chief executive officer of the dealer provides a written certification to the fund as to the nature, existence, and duration of the emergency, and that the orders were received by the dealer before the applicable pricing time; or

(B) An emergency prevents a designated transfer agent or registered clearing agency from timely receiving orders, and the chief executive officer of

the designated transfer agent or registered clearing agency notifies the fund as to the nature, existence, and duration of the emergency.

(ii) The fund, or its designated agent, must maintain a written record of each certification it receives under paragraph (b)(1)(i)(A) of this section for at least six years after the end of the fiscal year in which it receives the report, the first two years in an easily accessible place.

(2) *Transactions through conduit funds.* A fund may deem receipt of an order to have occurred immediately before the applicable pricing time if the fund, its designated transfer agent, or registered clearing agency receives the order from a registered investment company that invests in the fund in reliance on section 12(d)(1)(E) of the Act (15 U.S.C. 80a-12(d)(1)(E)).

(3) *Secondary market transactions.* A sponsor of a unit investment trust ("trust") engaged exclusively in the business of investing in eligible trust securities (as defined in § 270.14a-3(b)) may sell or repurchase trust units in a secondary market at a price based on the offering side evaluation of the eligible trust securities in the trust's portfolio, determined at any time on the last business day of each week, effective for all sales made during the following week, if on the days that such sales or repurchases are made the sponsor receives a letter from a qualified evaluator stating, in its opinion, that:

(i) In the case of repurchases, the current bid price is not higher than the offering side evaluation, computed on the last business day of the previous week; and

(ii) In the case of resales, the offering side evaluation, computed as of the last business day of the previous week, is not more than one-half of one percent (\$5.00 on a unit representing \$1,000 principal amount of eligible trust securities) greater than the current offering price.

(4) *Insurance company separate accounts.* A registered separate account offering variable annuity contracts may apply the initial purchase payment for any such contract at a price based on the current net asset value of the contract established as of the next pricing time:

(i) Not later than two business days after receipt of the order to purchase by the insurance company sponsoring the separate account ("insurer"), if the contract application and other information necessary for processing the order to purchase (collectively, "application") are complete upon receipt; or

(ii) Not later than two business days after an application which is incomplete upon receipt by the insurer is made

complete, provided that, if an incomplete application is not made complete within five business days after receipt:

(A) The prospective purchaser is informed of the reasons for the delay; and

(B) The initial purchase payment is returned immediately and in full, unless the prospective purchaser specifically consents to the insurer retaining the purchase payment until the application is made complete.

(5) *Mergers.* Any fund may adjust the price of its redeemable securities sold pursuant to a merger, consolidation or purchase of substantially all of the assets of a company that meets the conditions specified in § 270.17a-8.

(c) *Definitions.* For purposes of this section,

(1) *Designated transfer agent* means the single registered transfer agent (as defined in section 3(a)(25) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(25))) that is designated, in the fund's registration statement filed with the Commission, and is required by written contract to receive order information and maintain a record of the date and time it receives the order information.

(2) *Initial purchase payment* means the first purchase payment submitted to the insurer by, or on behalf of, a prospective purchaser.

(3) *Order* means a direction to purchase or redeem a specific number of fund shares or an indeterminate number of fund shares of a specific value. Each order is deemed to be irrevocable as of the next pricing time after the fund, its designated transfer agent, or registered clearing agency receives it. If a fund, its designated transfer agent, or registered clearing agency receives a direction to purchase redeemable securities of the fund using the proceeds of a contemporaneous order to redeem a specific number of shares of another fund (an exchange), the first fund may deem the direction to purchase its redeemable securities to be an order.

(4) *Pricing time* means the time of day as of which the fund calculates the current net asset value pursuant to paragraph (a)(1) of this section.

(5) *Prospective purchaser* means either an individual contract owner or an individual participant in a group contract.

(6) *Qualified evaluator* means any evaluator that represents it is in a position to determine, on the basis of an informal evaluation of the eligible trust securities held in a unit investment trust's portfolio, whether:

(i) The current bid price is higher than the offering side evaluation, computed