the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, "other processing" as defined under paragraph (f) of this section, livestock feed, or charity, except that the handler of the potatoes shall comply with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler shipping potatoes for canning, freezing, "other processing," livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of his intent to ship potatoes for such a special purpose by applying on a committee form for a Certificate of Privilege;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on a committee form a special purpose shipment report for each such shipment; and

(4) Forward copies of each special purpose shipment report to the committee office and to the receiver with instructions that each receiver sign and return a copy to the committee office. Failure of the handler or receiver to report all such shipments by promptly signing and returning each special purpose shipment report to the committee office shall be cause for suspension of the Certificate of Privilege allowing such special purpose shipments.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed five hundredweight of potatoes any day without regard to the inspection requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds five hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" means the same as when used in the U.S. Standards for Grades of Potatoes as amended (7 CFR 2851.1540–2851.1566), including the tolerances set forth in it. The term "other processing" means the same as when used in the act as amended, in which it is specified as the preparation of potatoes for market involving the application of heat or cold to such an extent that the natural form or stability of the potatoes is substantially changed. Certain uses this includes are potatoes for dehydration, chips, shoestrings, starch, and flour. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section have the same meanings as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated May 17, 1979, to become effective June 5, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-15997 Filed 5-21-79; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 73

Scabies in Cattle; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Bureau County in Illinois from the areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the area quarantined. No areas remain under quarantine in the State of Illinois because of psoroptic cattle scabies.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Bureau County in Illinois from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the released area, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the released area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect:

In § 73.1a, paragraph (f), relating to the State of Illinois is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; Secs. 1 and 2, 32 Stat. 791–792, as amended; Secs. 1–4, 33 Stat. 1264, 1265, as amended; Secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies from certain areas which have been determined to be free of cattle scabies. This amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such area without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 73. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 16th day of May 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-15869 Filed 5-21-79; 8:45 am]

BILLING CODE 3410-34-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-15776]

Delegation of Authority to the Director of the Division Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to delegate authority to the Director of the Division of Market Regulation to approve amendments to plans filed by self-regulatory organizations to implement the FOCUS reporting system.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: Elizabeth S. York, Esq., Office of Financial Responsibility and Securities Processing Regulations, Division of Market Regulations, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549, (202) 376-8137.

SUPPLEMENTARY INFORMATION: Section 17(a) of the Securities Exchange Act of 1934 (the "Act") authorizes the Commission by rule to prescribe, among other things, such reports as are necessary or appropriate in the public interest, for the protection of investors, or are otherwise in furtherance of the purposes of the Act. Rules 17a-5 (17 CFR 240.17a-5) and 17a-10 (17 CFR 240.17a-10) adopted thereunder prescribe that every registered broker and dealer shall file specified periodic reports on Form X-17A-5 (17 CFR 249.617) with the Commission unless the Commission has approved a plan, submitted by the self-regulatory organization which is the designated examining authority for the broker-dealer, for the collection of such reports.[1] The Commission has approved such a plan for each national securities exchange and registered securities association.

From time to time, those plans require amendment, among other reasons, to conform to revisions in the reporting structure implemented under Rules 17a-5 and 17a-10 and to establish parameters for special reports. In order to expedite action on such filings where they do not necessitate consideration by the Commission itself, the Commission is amending its Rules of General Organization Rule 30-3 (17 CFR 200.30-3) to delegate to the Director of the Division of Market Regulation the authority to approve amendments to these plans.

[1] Rule 17d-1 (17 CFR 240.17d-1).

The Commission finds, in accordance with 5 U.S.C. 533(b)(A) and 5 U.S.C. 533(d) of the Administrative Procedure Act, that the foregoing action relates solely to a rule of agency organization, procedure, or practice and does not relate to a substantive rule. Accordingly, the foregoing action becomes effective immediately. In addition, the Commission finds that there is not burden on competition imposed by the foregoing action.

Part 200 of Title 17 of the Code of Federal Regulations is amended by adding paragraph (a)(30) to § 200.30-3, as follows:

§ 200.30-3 Delegation of Authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(30) Pursuant to Section 17(a) of the Act, 15 U.S.C. 78q, to approve amendments to the plans which are consistent with the reporting structure of Rules 17a-5(a)(4) and 17a-10(b) filed by self-regulatory organizations pursuant to Rules 17a-5(a)(4) and 17a-10(b).

(Sec. 2, Pub. L. 94-29, 89 Stat. 97 (15 U.S.C. 78b);
(Sec. 25, Pub. L. 94-29, 89 Stat. 163 (15 U.S.C. 78d-1);
(Sec. 16, Pub. L. 94-29, 89 Stat. 146 (15 U.S.C. 78s);
(Sec. 18, Pub. L. 94-29, 89 Stat. 155 (15 U.S.C. 78w)).

* * * * *

By the Commission.

George A. Fitzsimmons,
Secretary.

May 4, 1979.

[FR Doc. 79-15901 Filed 5-21-79; 8:45]
BILLING CODE 8010-01-M

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17 CFR Part 270

[Release No. IC-10690]

Unit Investment Trust Start-up Exemptions

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission is adopting a rulemaking which provides certain unit investment trusts with "start-up" exemptions from requirements of the Investment Company Act of 1940 pertaining to minimum net worth, frequency of capital gains distributions, and forward pricing. This rulemaking will obviate the need for an individual investment company to seek exemptive applications under circumstances in which the Commission has granted a number of orders.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 755-1547.

SUPPLEMENTARY INFORMATION: The Commission today adopted rule 14a-3 (17 CFR 270.14a-3), and amended rules 19b-1 (17 CFR 270.19b-1), and 22c-1 (17 CFR 270.22c-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Act"). This rulemaking will provide certain unit investment trusts with "start-up" exemptions from the Act's requirements pertaining to minimum net worth,[1] frequency of capital gains distribution,[2] and forward pricing.[3]

In response to its request for comments regarding the rulemaking set forth in Investment Company Act Release No. 10545 (Jan. 8, 1979, 44 FR 3376, Jan. 16, 1979), the Commission received and considered 14 letters. All comments received appeared to favor the Commission's adopting the proposed rulemaking; but, with a single exception, each commentator suggested modifications to the proposals. As a result of considering these comments, the Commission has decided to adopt, with minor modifications, that part of the rulemaking which relates solely to unit investment trusts, and to republish today for public comment a revision of that part of the rulemaking which relates to the pricing of investment company shares generally.[4]

Trust Start-up Exemptions

After considering the comments received, the Commission has determined to include under the exemptions certain unit investment trusts which could not have relied on the rulemaking as proposed.

The proposed rulemaking would have provided exemptions only to those unit investment trusts which engaged exclusively in the business of investing in specified trust debt securities, generally including corporate and

[1] Section 14(a) of the Act (15 U.S.C. 80a-14(a)) generally requires an investment company to have an initial net worth of at least $100,000.

[2] Rule 19b-1 under the Act generally limits distributions of capital gains by an investment company to once in any taxable year.

[3] Rule 22c-1(a) under the Act requires that an investment company sell, redeem or repurchase its redeemable securities only at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

[4] Investment Company Act Release No. 10691, May 15, 1979.

municipal bonds, government securities, and certain units of a previously issued series of the trust. In response to a comment, the Commission has determined that the rulemaking should apply additionally to other unit investment trusts which invest in securities which are issued by a corporation, and which have their interest or dividend rate fixed at the time they are issued since such securities share many of the characteristics of income oriented investments in which such unmanaged trusts typically invest. Because these securities would include certain issues of preferred stock,[5] the term "trust debt securities" which was used in the proposed rulemaking is replaced by the term "eligible trust securities."

The Commission notes that, from time-to-time in the future, trusts may be organized to invest in new classes of portfolio securities that theretofore had not been considered "eligible trust securities" for purposes of satisfying this package of trust start-up exemptive rules. Consequently, the Commission has instructed the Division of Investment Management to monitor developments among unit investment trusts, especially those providing new types of portfolio investments. When it has had sufficient experience with trusts offering any new portfolio investments the Division will consider the propriety of recommending to the Commission that such trusts be included under the start-up exemptive rules.

Layering of Fees

In its release, the Commission specifically requested comments concerning the practice of depositing units of a previously issued series of a trust in the portfolio of a new series of the same trust, which may result in the "layering" of trustee's and evaluator's fees. It requested comment on any economic impact of such "layering" and any steps which would be necessary and appropriate to alleviate any unfairness resulting from that practice.

Only one commentator addressed this concern and asserted that any "layering" of fees properly reflects the services being provided. Based on this limited response, the Commission has determined for the time being not to prohibit such practice *per se*. However, it notes that important disclosure obligations may arise whenever "layering" of fees exists.

Final Rulemaking

Rule 14a-3

Rule 14a-3 provides that, subject to certain conditions, a registered trust engaged exclusively in the business of investing in "eligible trust securities" ("Trust") and any principal underwriter for the Trust, is exempt from section 14(a) of the Act with respect to a public offering of Trust units. The conditions which must be met in order for the exemption offered by the rule to apply are as follows:

(1) At the commencement of the public offering, the Trust holds at least $100,000 principal amount of "eligible trust securities;"

(2) If, within ninety days from the time that the Trust's registration statement has become effective under the Securities Act of 1933 the net worth of the Trust declines to less than $100,000 or the Trust is terminated, the sponsor for the Trust must (i) refund, on demand and without deduction, all sales charges to any unitholders who purchased Trust units from the sponsor (or from any underwriter or dealer participating in the distribution), and (ii) liquidate the "eligible trust securities" held by the Trust and distribute the proceeds thereof to the unitholders of the Trust;

(3) The sponsor must instruct the trustee when the "eligible trust securities" are deposited in the Trust that, in the event that redemptions by the sponsor or underwriter (if any) of units constituting a part of the unsold units results in the Trust's having a net worth of less than 40 percent of the principal amount of the "eligible trust securities" initially deposited in the Trust, (i) the trustee shall terminate the Trust and distribute the assets to the unitholders of the Trust, and (ii) the sponsor for the Trust must refund, on demand and without deduction, all sales charges to any unitholder who purchased Trust units from the sponsor or from any underwriter or dealer participating in the distribution.

The rule defines the term "eligible trust securities" to mean:[6]

(1) Securities (other than convertible securities) which are issued by a corporation and which have their interest or dividend rate fixed at the time they are issued;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities;[7] and

(4) Units of a previously issued series of the Trust, provided that: (i) The aggregate principal amount of units of existing series so deposited will not exceed 10% of the aggregate principal amount of the portfolio of the new series; (ii) the aggregate principal amount of units of any particular existing series so deposited will not exceed 5% of the aggregate principal amount of the portfolio of the new series; (iii) no units will be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited; (iv) the value of the "eligible trust securities" underlying units of an existing series deposited in a new series will not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated;[8] (v) units of existing series so deposited will constitute units purchased by the sponsor as market maker and not remaining unsold units from the original distribution of such units; and (vi) the sponsor will deposit units of existing series in the new series without a sales charge.

Amended Rule 19b-1

Paragraphs (c) and (d) of amended rule 19b-1[9] allows a Trust engaged exclusively in the business of investing in "eligible trust securities" (as defined in proposed rule 14a-3(b)) to make more than one capital gains distribution in any one taxable year, provided that:

(1) The capital gain distribution is a result of (i) an issuer's calling or redeeming the "eligible trust security" held by the Trust, (ii) the sale of an "eligible trust security" 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) sale of an "eligible trust security" to maintain qualification of the Trust as a

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[5] Preferred stock with a convertible feature would not be considered to have its interest or dividend rate fixed at the time it is issued. Moreover, if the preferred security may be converted only upon the volition of the securityholder, the Commission believes that it would be inappropriate for a trust to pay a premium which represents the convertibility feature when a trust lacks any management which could exercise that convertibility option.

[6] To avoid ambiguity, the word "mean" has been substituted for the word "include," which was used in the proposed rulemaking. This substitution, however, is not intended to prevent the Division, in appropriate cases, from specifying by no-action letter whether particular securities are within the scope of the term "eligible trust securities."

[7] The term "government security" is defined in section 2(a)(16) of the Act (15 U.S.C. 80a-2(a)(16)).

[8] The term "voluntarily terminated" refers to termination of an existing trust (whose units are deposited in a subsequent series) resulting when a specified percentage of that trust's remaining securities matures. See, e.g., Cardinal Tax Exempt Bond Fund (Mar. 14, 1977) and Municipal Investment Trust Fund (Oct. 25, 1975).

[9] The amendments to rule 19b-1 do not change paragraphs (a) and (b) of existing rule 19b-1. Paragraph (c) of the existing rule is relettered paragraph (e), but otherwise remains unchanged.

"regulated investment company" under Section 851 of the Internal Revenue Code, (iv) regular distributions of principal and prepayment of principal on "eligible trust securities," or (v) sale of an "eligible trust security" to maintain the investment stability of the Trust; and

(2) Capital gains distributions are clearly described as such in a report to the unitholders which accompanies each such distribution.

A sale made in order to maintain the "investment stability" of the Trust is defined by rule 19b-1(d) to mean a sale made to prevent deterioration in the value of the "eligible trust securities" held by the Trust when one or more of the following factors exists: (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 an "eligible trust security," or (3) an adverse change in the market, revenue, or credit factors which adversely affects the ability of such issuer to continue payent of principal or interest on its "eligible trust securities."

Amended Rule 22c-1

Amended Rule 22c-1 provides, in pertinent part, that a sponsor of a Trust engaged in the business of investing in "eligible trust securities" may sell and repurchase Trust units in the secondary market at a price based on the offering side evaluation of the "eligible trust securities" in the Trust portfolio, determined 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 [10] stating, in its opinion, that:

(1) 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

(2) 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.

[10] The rule defines a "qualified Evaluator" to mean any Evaluator which represents it is in a position to determine, on the basis of an informal evaluation of the "eligible trust securities" held in the Trust's portfolio, whether (i) the current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and (ii) the offering side evaluation, computed as of the last business day of the previous week, is 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.

Authority, Certain Findings, Effective Date

The Commission adopts new rule 14a-3 pursuant to the provisions of sections 6(c) (15 U.S.C. 80a-6(c)) and 38(a) (15 U.S.C. 80a-37(a)) of the Act. The Commission adopts amended rule 19(b) pursuant to the provisions of section 6(c), 19(b) (15 U.S.C. 80a-19(b)) and 38(a) of the Act. The Commission adopts amended rule 22c-1 pursuant to the provisions of sections 6(c), 22(c) (15 U.S.C. 80a-22(c)) and 38(a) of the Act.

Because the rulemaking is exemptive in nature, the foregoing adoptions become effective immediately.

Text of Adopted and Amended Rules

I. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 270.14a-3 as follows:

§ 270.14a-3 Exemption from section 14(a) of the Act for certain registered unit investment trusts and their principal underwriters.

(a) A registered unit investment trust (hereinafter referred to as the "Trust") engaged exclusively in the business of investing in eligible trust securities, and any principal underwriter for the Trust, shall be exempt from section 14(a) of the Act with respect to a public offering of Trust units: *Provided,* That:

(1) At the commencement of such offering the Trust holds at least $100,000 principal amount of eligible trust securities (or delivery statements relating to contracts for the purchase of any such securities which, together with cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase, are held by the Trust for purchase of the securities);

(2) If, within ninety days from the time that the Trust's registration statement has become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.) the net worth of the Trust declines to less than $100,000 or the Trust is terminated, the sponsor for the Trust shall—

(i) Refund, on demand and without deduction, all sales charges to any unitholders who purchased Trust units from the sponsor (or from any underwriter or dealer participating in the distribution), and

(ii) Liquidate the trust securities held by the Trust and distribute the proceeds thereof to the unitholders of the Trust;

(3) The sponsor instructs the trustee when the eligible trust securities are deposited in the Trust that, in the event that redemptions by the sponsor or any underwriter of units constituting a part of the unsold units results in the Trust having a net worth of less than 40 percent of the principal amount of the eligible trust securities (or delivery statements relating to contracts for the purchase of any such securities which, together with cash or an irrevocable letter of credit issued by a bank in the amount required for their purchase, are held by the Trust for purchase of the securities) initially deposited in the Trust—

(i) The trustee shall terminate the Trust and distribute the assets thereof to the unitholders of the Trust, and

(ii) The sponsor for the Trust shall refund, on demand and without deduction, all sales charges to any unitholder who purchased Trust units from the sponsor or from any underwriter or dealer participating in the distribution.

(b) For the purposes of determining the availability of the exemption provided by the foregoing subsection, the term "eligible trust securities" shall mean:

(1) Securities (other than convertible securities) which are issued by a corporation and which have their interest or dividend rate fixed at the time they are issued;

(2) Interest bearing obligations issued by a state, or by any agency, instrumentality, authority or political subdivision thereof;

(3) Government securities; and

(4) Units of a previously issued series of the Trust: *Provided,* That:

(i) The aggregate principal amount of units of existing series so deposited shall not exceed 10% of the aggregate principal amount of the portfolio of the new series;

(ii) The aggregate principal amount of units of any particular existing series so deposited shall not exceed 5% of the aggregate principal amount of the portfolio of the new series;

(iii) No units shall be so deposited which do not substantially meet investment quality criteria at least as high as those applicable to the new series in which such units are deposited;

(iv) The value of the eligible trust securities underlying units of an existing series deposited in a new series shall not, by reason of maturity of such securities according to their terms within ten years following the date of deposit, be reduced sufficiently for such existing series to be voluntarily terminated;

(v) Units of existing series so deposited shall constitute units purchased by the sponsor as market maker and not remaining unsold units from the original distribution of such units; and

(vi) the sponsor shall deposit units of existing series in the new series without a sales charge.

II. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by redesignating existing paragraph (c) of § 270.19b-1 as (e) and adding new paragraphs (c) and (d) as follows:

§ 270.19b-1 Frequency of distribution of capital gains.

* * * * *

(c) The provisions of this rule shall not apply to a unit investment trust (hereinafter referred to 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 debt 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 Internal Revenue Code of 1954, as amended,

(iv) Regular distibutions 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) of this section, 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.

[Existing paragraph (c) is redesignated paragraph (e).]

III. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by amending paragraphs (a) and (b) of § 270.22c-1 as follows:

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

(a) No registered investment company issuing any redeemable security, no person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and no principal underwriter of, or dealer in, any such security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security: *Provided*, That:

(1) This paragraph shall not prevent a sponsor of a unit investment trust (hereinafter referred to 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))) from selling or repurchasing 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.

(b) For the purposes of this section, (1) the current net asset value of any such security shall be that computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of the close of trading on such Exchange, and (2) a "qualified evaluator" shall mean any evaluator which represents it is in a position to determine, on the basis of an informal evaluation of the eligible trust securities held in the Trust's portfolio, whether—

(i) The current bid price is higher than the offering side evaluation, computed on the last business day of the previous week, and

(ii) The offering side evaluation, computed as of the last business day of the previous week, is 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.

By the Commission.

George A. Fitzsimmons,

Secretary.

May 15, 1979.

[FR Doc. 79-15871 Filed 5-21-79; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 308

Adoption of New Part To Implement the Contract Disputes Act of 1978

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: This rule adds a new part 308 to Chapter II to implement the Contract Disputes Act of 1978, 92 Stat. 2382 ("the Act"), as it relates to TVA. This part prescribes procedures for use in the determination of contract disputes, including Contracting Officers' decisions, decisions by the TVA Board of Contract Appeals, hearing and prehearing procedures, and issuance and enforcement of TVA administrative subpoenas.

DATES: The part applies to any covered TVA contract having an effective date on or after March 1, 1979, or, at the Contractor's election, to disputes pending on that date or subsequently initiated under contracts effective prior to March 1, 1979.

FOR FURTHER INFORMATION CONTACT: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902.

SUPPLEMENTARY INFORMATION: On March 23, 1979, TVA published a proposed rule in the **Federal Register** (44 FR 17715) to implement the Act. The proposal prescribed procedures for use