

### *Tax Equivalent Yield*

10. If a trust quotes a tax equivalent yield, calculate tax equivalent yield by dividing that portion of the yield of the trust that is tax exempt by one minus a stated income tax rate and adding to the product that portion, if any, of the yield of the trust that is not tax exempt. Any quotation of tax equivalent yield in the trust's prospectus, advertisements, or sales literature, should be accompanied by a quotation of Estimated Yield that is given equal prominence.

### *Secondary Market Sales*

11. In calculating Estimated Yield subsequent to the initial offering of the trust, use the maximum public offering price at which the trust's sponsor is willing to sell trust units to an investor and the maximum sales load that may be charged to an investor for trust units.

### *Preferred Stock, Asset-Backed Securities, and Adjustable-Rate Securities*

12. In the case of preferred stock:

(a) In lieu of yield to maturity in determining "a", use the preferred stock's interest rate calculated by dividing the security's dividend by its market value and by annualizing on a straight-line method, (e.g., multiply a quarterly payment rate by 4);

(b) In determining the amortization date in "n", in the case of preferred stock that can be converted to common stock or is subject to a redemption feature, use as the security's expected life: the lesser of the time period to its conversion date, its redemption date or the trust's termination date; and

(c) In determining the amortization date in "n", in the case of all other preferred stock, use the trust's termination date as the security's expected life.

13. In determining each asset-backed security's yield to maturity in "a" and in determining each asset-backed security's amortization period in "n", in lieu of its maturity date, use the same "expected life" of the security used for calculating the price of the security as part of the trust's net asset value.

14. (a) For adjustable-rate securities not subject to a demand feature, use the next reset date as the maturity date for calculating yield to maturity in "a"; and

(b) For adjustable-rate securities subject to a demand feature, use the time remaining until the next demand date or the next reset date, whichever is less, as the maturity date for calculating yield to maturity in "a".

15. In the case of a trust that invests some of its assets in preferred stock, asset-backed securities, or adjustable-rate securities, in addition to the disclosure required by paragraph (f)(2) of Form S-6, disclose that some of the trust's assets (\_\_\_\_%) is invested in (preferred stock, asset-backed securities, or adjustable-rate securities), and, because the continued payment of interest or other income (and return of principal for asset-backed securities) for these types of securities cannot be predicted, this portion of the trust's yield *will* vary and, as a result, actual investor experience *will* be different.

16. In the case of a trust that invests substantially all of its assets in preferred stock, asset-backed securities, or adjustable-

rate securities refer to its yield, calculated pursuant to the Estimated Yield Formula, as "Current Yield"; and, in addition to the disclosure required by paragraph (f)(2) of Form S-6, disclose that, because the continued payment of interest or other income (and return of principal for asset-backed securities) for these types of securities cannot be predicted, the trust's yield *will* vary and, as a result, actual investor experience *will* be different. Provide a cross-reference to the part of the prospectus in which the portfolio securities are described.

17. In the case of a trust that invests substantially all or a portion of its assets in preferred stock, asset-backed securities, or adjustable-rate securities and provides a yield in its advertisements pursuant to Rule 482 under the Act [17 CFR 230.482], or in its sales literature in compliance with Rule 34b-1 under the 1940 Act [17 CFR 270.34b-1], in lieu of the disclosure required by Rule 482(a)(8) under the Act [17 CFR 230.482(a)(8)] or Rule 34b-1(c)(1) under the 1940 Act [17 CFR 270.34b-1(c)(1)] provide the disclosure required by Instructions 15 and 16 (excluding the cross-reference) as appropriate.

### *Securities Denominated in Foreign Currencies*

18. In the case of a security denominated in a foreign currency, convert its market value into U.S. dollars at the exchange rate in effect at the time of calculation.

### *Additional*

19. Determine Estimated Yield to the nearest hundredth of one percent. Use calculations using market price, accrued interest, annual periods, expenses, net asset value, or number of years to the nearest one thousandth. Base calculations using yield to maturity, coupon rate, or sales load to the nearest thousandth of one percent.

20. In the case of a post-effective amendment to the trust's registration statement, calculate the trust's Estimated Yield as of a date reasonably close to the date of filing of the post-effective amendment.

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## **PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940**

5. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a-1 *et seq.*, 80a-37, 80a-39 unless otherwise noted;

\* \* \* \* \*

6. By revising § 270.34b-1 to read as follows:

### **§ 270.34b-1 Sales literature deemed to be misleading.**

Any advertisement, pamphlet, circular, form letter, or other sales literature addressed to or intended for distribution to prospective investors that is required to be filed with the Commission by section 24(b) of the Act [15 U.S.C. 80a-24(b)] ("sales literature") shall have omitted to state a fact

necessary in order to make the statements made therein not materially misleading unless the sales literature includes the information specified in paragraphs (a), (b) and (c) of this section.

(a) Sales literature for a money market fund shall contain the information required by paragraph (a)(7) of § 230.482 of this chapter.

(b) Except as provided in paragraph (d) of this section, any sales literature containing performance data of an open-end management investment company or a separate account registered under the Act as a unit investment trust offering variable annuity contracts shall also include:

(1) The disclosure required by paragraph (a)(6) of § 230.482 of this chapter; and

(2) The following additional performance data, which shall meet the currentness requirements of paragraph (g) of § 230.482 of this chapter:

(i) Except in the case of a money market fund, the total return information required by paragraph (e)(3) of § 230.482 of this chapter;

(ii) In the case of sales literature containing a quotation of yield or other similar quotation purporting to demonstrate the income earned or distributions made by the company, a quotation of current yield specified by paragraph (e)(1) of § 230.482 of this chapter, or, in the case of a money market fund, paragraph (d)(1) of § 230.482 of this chapter; and

(iii) In the case of sales literature containing a quotation of tax equivalent yield or other similar quotation purporting to demonstrate the tax equivalent of income earned or distributions made by the company, a quotation of tax equivalent yield specified by paragraph (e)(2) and current yield specified by paragraph (e)(1) of § 230.482 of this chapter, or, in the case of a money market fund, paragraph (d)(1) of § 230.482 of this chapter.

(c) Any sales literature containing a quotation of yield, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by a Fixed Income UIT defined in Instruction 1 to Form S-6 under the Securities Act of 1933, (§ 239.16 of this chapter), shall also include:

(1) The disclosure required by paragraph (a)(8) of § 230.482 of this chapter; and

(2) A quotation of Estimated Yield specified by paragraph (f) of § 230.482 of this chapter which shall meet the currentness requirements of paragraph (g) of § 230.482 of this chapter.