PROPOSED INVESTMENT COMPANY ACT RULE 18f-4 (December 2015)

§ 270.18f-4 Exemption from the requirements of section 18 and section 61 for certain senior securities transactions.

(a) A registered open-end or closed-end company or business development company (each, including any separate series thereof, a "fund") may enter into derivatives transactions, notwithstanding the requirements of section 18(a)(1) (15 U.S.C. 80a-18(a)(1)), section 18(c) (15 U.S.C. 80a-18(c)), section 18(f)(1) (15 U.S.C. 80a-18(f)(1)) and section 61 (15 U.S.C. 80a-61) of the Investment Company Act; provided that:

(1) The fund complies with one of the following portfolio limitations such that, immediately after entering into any senior securities transaction:

(i) The aggregate exposure of the fund does not exceed 150% of the value of the fund's net assets; or

(ii) The fund's full portfolio VaR is less than the fund's securities VaR and the aggregate exposure of the fund does not exceed 300% of the value of the fund's net assets.

(2) The fund manages the risks associated with its derivatives transactions by maintaining qualifying coverage assets, identified on the books and records of the fund as specified in paragraph (a)(6)(v) of this section and determined at least once each business day, with a value equal to at least the sum of the fund's aggregate mark-to-market coverage amounts and risk-based coverage amounts.

(3) Except as provided in paragraph (a)(4) of this section, the fund adopts and implements a written derivatives risk management program ("program") that is reasonably designed to assess and manage the risks associated with the fund's derivatives transactions.

(i) Required program elements. Each fund required to adopt and implement a program must adopt and implement written policies and procedures reasonably designed to:

A. Assess the risks associated with the fund's derivatives transactions, including an evaluation of potential leverage, market, counterparty, liquidity, and operational risks, as applicable, and any other risks considered relevant;

B. Manage the risks associated with the fund's derivatives transactions (including the risks identified in paragraph (a)(3)(i)(A) of this section, as applicable), including by:

(i) Monitoring whether the fund's use of derivatives transactions is consistent with any investment guidelines established by the fund or the fund's investment adviser, the relevant portfolio limitation applicable to the fund under this section, and relevant disclosure to investors; and

(ii) Informing persons responsible for portfolio management of the fund or the fund's board of directors, as appropriate, regarding material risks arising from the fund's derivatives transactions;

C. Reasonably segregate the functions associated with the program from the portfolio management of the fund; and

D. Periodically review and update the program at least annually, including any models(including any VaR calculation models used by the fund during the period covered by the review), measurement tools, or policies and procedures that are part of, or used in, the program to evaluate their effectiveness and reflect changes in risks over time.

(ii) Board approval and oversight of the program.

A. The fund shall obtain initial approval of the program, as well as any material change to the program, from the fund's board of directors, including a majority of directors who are not interested persons of the fund;

B. The fund's board of directors, including a majority of directors who are not interested persons of the fund, shall review, no less frequently than quarterly, a written report prepared by the person designated under paragraph (a)(3)(ii)(C) of this section that describes the adequacy of the fund's program and the effectiveness of its implementation; and

C. The fund shall designate an employee or officer of the fund or the fund's investment adviser (who may not be a portfolio manager of the fund) responsible for administering the policies and procedures incorporating the elements of paragraphs (a)(3)(i)(A) through (a)(3)(i)(D) of this section, whose designation must be approved by the fund's board of directors, including a majority of the directors who are not interested persons of the fund.

(4) A derivatives risk management program shall not be required if the fund complies, and monitors its compliance, with a portfolio limitation under which:

(i) Immediately after entering into any derivatives transaction the aggregate exposure associated with the fund's derivatives transactions does not exceed 50% of the value of the fund's net assets; and

(ii) The fund does not enter into complex derivatives transactions.

(5) The fund's board of directors (including a majority of the directors who are not interested persons of the fund) has:

(i) Approved the particular portfolio limitation under which the fund will operate pursuant to paragraph (a)(1) of this section and, if applicable, paragraph (a)(4) of this section;

(ii) Approved policies and procedures reasonably designed to provide for the fund's maintenance of qualifying coverage assets, as required under paragraph (a)(2) of this section; and

(iii) If the fund is required to adopt and implement a derivatives risk management program, taken the actions specified in paragraph (a)(3)(ii) of this section.

(6) The fund maintains:

(i) A written record of each determination made by the fund's board of directors under paragraph (a)(5)(i) of this section with respect to the portfolio limitation applicable to the fund for a period of not less than five years (the first two years in an easily accessible place) following each determination;

(ii) A written copy of the policies and procedures approved by the board of directors under paragraph (a)(5)(ii) of this section that are in effect, or at any time within the past five years were in effect, in an easily accessible place; and

(iii) If the fund is required to adopt and implement a derivatives risk management program:

A. A written copy of the policies and procedures adopted by the fund under paragraph (a)(3) of this section that are in effect, or at any time within the past five years were in effect, in an easily accessible place;

B. Copies of any materials provided to the board of directors in connection with its approval of the derivatives risk management program, including any material changes to the program, and any written reports provided to the board of directors relating to the program, for at least five years after the end of the fiscal year in which the documents were provided, the first two years in an easily accessible place; and

C. Records documenting the periodic reviews and updates conducted in accordance with paragraph (a)(3)(i)(D) of this section (including any updates to any VaR calculation models used by the fund and the basis for any material changes thereto), for a period of not less than five years (the first two years in an easily accessible place) following each review or update.

(iv) A written record demonstrating that immediately after the fund entered into any senior securities transaction, the fund complied with the portfolio limitation applicable to the fund immediately after entering into the senior securities transaction, reflecting the fund's aggregate exposure, the value of the fund's net assets and, if applicable, the fund's full portfolio VaR and its securities VaR, for a period of not less than five years (the first two years in an easily accessible place) following each senior securities transaction entered into by the fund.

(v) A written record reflecting the mark-to-market coverage amount and the risk-based coverage amount for each derivatives transaction entered into by the fund and identifying the qualifying coverage assets maintained by the fund with respect to the fund's aggregate mark-to-market and risk-based coverage amounts, as determined by the fund at least once each business day, for a period of not less than five years (the first two years in an easily accessible place).

(b) A fund may enter into financial commitment transactions, notwithstanding the requirements of section 18(a)(1)(15 U.S.C. 80a-18(a)(1)), section 18(c)(15 U.S.C. 80a-18(c)), section 18(f)(1)(15 U.S.C. 80a-18(f)(1))and section 61 (15 U.S.C. 80a-61)of the Investment Company Act; provided that:

(1) The fund maintains qualifying coverage assets, identified on the books and records of the fund as specified in paragraph (b)(3)(ii) of this section and determined at least once each business day, with a value equal to at least the fund's aggregate financial commitment obligations.

(2) The fund's board of directors (including a majority of the directors who are not interested persons of the fund) has approved policies and procedures reasonably designed to provide for the fund's maintenance of qualifying coverage assets, as required under paragraph(b)(1) of this section.

(3) The fund maintains:

(i) A written copy of the policies and procedures approved by the board of directors under paragraph (b)(2) of this section that are in effect, or at any time within the past five years were in effect, in an easily accessible place; and

(ii) A written record reflecting the amount of each financial commitment obligation associated with each financial commitment transaction entered into by the fund and identifying the qualifying coverage assets maintained by the fund with respect to each financial commitment obligation, as determined by the fund at least once each business day, for a period of not less than five years (the first two years in an easily accessible place).

(c) Definitions.

(1) *Complex derivatives transaction* means any derivatives transaction for which the amount payable by either party upon settlement date, maturity or exercise:

(i) Is dependent on the value of the underlying reference asset at multiple points in time during the term of the transaction; or

(ii) Is a non-linear function of the value of the underlying reference asset, other than due to optionality arising from a single strike price.

(2) *Derivatives transaction* means any swap, security-based swap, futures contract, forward contract, option, any combination of the foregoing, or any similar instrument("derivatives instrument") under which the fund is or may be required to make any payment or delivery of cash or other assets during the life of the instrument or at maturity or early termination, whether as a margin or settlement payment or otherwise.

(3) *Exposure* means the sum of the following amounts, determined immediately after the fund enters into any senior securities transaction:

(i) The aggregate notional amounts of the fund's derivatives transactions, provided that a fund may net any directly offsetting derivatives transactions that are the same type of instrument and have the same underlying reference asset, maturity and other material terms;

(ii) The aggregate financial commitment obligations of the fund; and

(iii) The aggregate indebtedness (and with respect to any closed-end fund or business development company, involuntary liquidation preference) with respect to any senior securities transaction entered into by the fund pursuant to section 18 (15 U.S.C. 80a-18)or 61 (15 U.S.C. 80a-61)of the Investment Company Act without regard to the exemption provided by this section.

(4) *Financial commitment transaction* means any reverse repurchase agreement, short sale borrowing, or any firm or standby commitment agreement or similar agreement (such as an agreement under which a fund has obligated itself, conditionally or unconditionally, to make a loan to a company or to invest equity in a company, including by making a capital commitment to a private fund that can be drawn at the discretion of the fund's general partner).

(5) *Financial commitment obligation* means the amount of cash or other assets that the fund is conditionally or unconditionally obligated to pay or deliver under a financial commitment transaction. Where the fund is conditionally or unconditionally obligated to deliver a particular asset, the financial commitment obligation shall be the value of the asset, determined at least once each business day.

(6) *Mark-to-market coverage amount* means, for each derivatives transaction, at any time of determination under this section, the amount that would be payable by the fund if the fund were to exit the derivatives transaction at such time; provided that:

(i) If the fund has entered into a netting agreement that allows the fund to net its payment obligations with respect to multiple derivatives transactions, the mark-to-market coverage amount for those derivatives transactions may be calculated as the net amount that would be payable by the fund, if any, with respect to all derivatives transactions covered by the netting agreement; and

(ii) The fund's mark-to-market coverage amount for a derivatives transaction may be reduced by the value of assets that represent variation margin or collateral for the amounts payable referred to in paragraph (c)(6) of this section with respect to the derivatives transaction.

(7) *Notional amount* means, with respect to any derivatives transaction:

(i) The market value of an equivalent position in the underlying reference asset for the derivatives transaction (expressed as a positive amount for both long and short positions); or

(ii) The principal amount on which payment obligations under the derivatives transaction are calculated; and

(iii) Notwithstanding paragraphs (c)(7)(i) and (ii) of this section:

A. For any derivatives transaction that provides a return based on the leveraged performance of a reference asset, the notional amount shall be multiplied by the leverage factor;

B. For any derivatives transaction for which the reference asset is a managed account or entity formed or operated primarily for the purpose of investing in or trading derivatives transactions, or an index that reflects the performance of such a managed account or entity, the notional amount shall be determined by reference to the fund's pro rata share of the notional amounts of the derivatives transactions of such account or entity; and

C. For any complex derivatives transaction, the notional amount shall be an amount equal to the aggregate notional amount of derivatives instruments, excluding other complex derivatives transactions, reasonably estimated to offset substantially all of the market risk of the complex derivatives transaction.

(8) *Qualifying coverage assets* means assets of the fund described in paragraphs (c)(8)(i)-(iii) of this section, provided that the total amount of a fund's qualifying coverage assets shall not exceed the fund's net assets, and that assets of the fund maintained as qualifying coverage assets shall not be used to cover both a derivatives transaction and a financial commitment transaction:

(i) Cash and cash equivalents;

(ii) With respect to any derivatives transaction or financial commitment transaction under which the fund may satisfy its obligations under the transaction by delivering a particular asset, that particular asset; and

(iii) With respect to any financial commitment obligation, assets that are convertible to cash or that will generate cash, equal in amount to the financial commitment obligation, prior to the date on which the fund can be expected to be required to pay such obligation or that have been pledged with respect to the financial commitment obligation and can be expected to satisfy such obligation, determined in accordance with policies and procedures approved by the fund's board of directors as provided in paragraph (b)(2) of this section.

(9) *Risk-based coverage amount* means, for each derivatives transaction, an amount, in addition to the derivative transaction's mark-to-market coverage amount, that represents, at any time of determination under this section, a reasonable estimate of the potential amount payable by the fund if the fund were to exit the derivatives transaction under stressed conditions, determined in accordance with policies and procedures (which must take into account, as relevant, the structure, terms and characteristics of the derivatives transaction and the underlying reference asset)approved by the fund's board of directors as provided in paragraph (a)(5) of this section; provided that:

(i) The risk-based coverage amount may be determined on a net basis for derivatives transactions that are covered by a netting agreement that allows the fund to net its payment obligations with respect to multiple derivatives transactions, in accordance with the terms of the netting agreement; and

(ii) The fund's risk-based coverage amount for a derivatives transaction may be reduced by the value of assets that represent initial margin or collateral for the potential amounts payable referred to in paragraph (c)(9) of this section with respect to the derivatives transaction.

(10) *Senior securities transaction* means any derivatives transaction, financial commitment transaction, or any transaction involving a senior security entered into by the fund pursuant to section 18 (15 U.S.C. 80a-18)or 61 (15 U.S.C. 80a-61)of the Act without regard to the exemption provided by this section.

(11) *Value-at-risk* or *VaR* means an estimate of potential losses on an instrument or portfolio, expressed as a positive amount in U.S. dollars, over a specified time horizon and at a given confidence interval, provided that:

(i) For purposes of the portfolio limitation described in (a)(1)(ii)of this section:

A. A fund's "*securities VaR*" means the VaR of the fund's portfolio of securities and other investments, but excluding any derivatives transactions;

B. A fund's *"full portfolio VaR"* means the VaR of the fund's entire portfolio, including securities, other investments and derivatives transactions; and

C. A fund must apply its VaR model consistently when calculating the fund's securities VaR and the fund's full portfolio VaR.

(ii) Any VaR model used by a fund for purposes of determining the fund's securities VaR and full portfolio VaR must:

A. Take into account and incorporate all significant, identifiable market risk factors associated with a fund's investments, including, as applicable:

(i) Equity price risk, interest rate risk, credit spread risk, foreign currency risk and commodity price risk;

(ii) Material risks arising from the nonlinear price characteristics of a fund's investments, including options and positions with embedded optionality; and

(iii) The sensitivity of the market value of the fund's investments to changes in volatility;

B. Use a 99% confidence level and a time horizon of not less than 10 and not more than 20 trading days; and

C. If using historical simulation, include at least three years of historical market data.