

Quarter ending	Dividend yield quarterly percent	Rate for each month of quarter (1/2 of annual)
Mar. 197172	.24
June 197170	.23
Sept. 197171	.24
Dec. 197170	.23

Accumulated value of dividends reinvested:
 December =1.0026
 January–March =1.0072
 April–June =1.0070
 July–September =1.0071
 October–November =1.0047⁴
 Dividend yield:

$$(1.0026 \times 1.0072 \times 1.0070 \times 1.0071 \times 1.0047) - 1.00 = .0289$$

Aggregate value of dividends paid computed consistently with the index:

$$.0289 \times 51.84 = 1.50$$

Investment record of the NYSE Composite Index for the 12 months ended November 30, 1971:

$$\frac{4.43 + 1.50}{47.41} = 12.51 \text{ percent}$$

(Secs. 205, 211, 54 Stat. 852, 74 Stat. 887, 15 U.S.C. 80b-205, 80b-211; sec. 25, 84 Stat. 1432, 1433, Pub. L. 91-547)
 [37 FR 17468, Aug. 29, 1972]

§ 275.205-2 Definition of “specified period” over which the asset value of the company or fund under management is averaged.

(a) For purposes of this rule:

(1) *Fulcrum fee* shall mean the fee which is paid or earned when the investment company’s performance is equivalent to that of the index or other measure of performance.

(2) *Rolling period* shall mean a period consisting of a specified number of subperiods of definite length in which the most recent subperiod is substituted for the earliest subperiod as time passes.

(b) The specified period over which the asset value of the company or fund under management is averaged shall mean the period over which the invest-

⁴ The rate for October and November would be two thirds of the yield for the quarter ended September 30 (i.e. $.667 \times .71 = 4736$), since the yield for the quarter ended December 31 would not be available as of November 30.

ment performance of the company or fund and the investment record of an appropriate index of securities prices or such other measure of investment performance are computed.

(c) Notwithstanding paragraph (b) of this section, the specified period over which the asset value of the company or fund is averaged for the purpose of computing the fulcrum fee may differ from the period over which the asset value is averaged for computing the performance related portion of the fee, only if:

(1) The performance related portion of the fee is computed over a rolling period and the total fee is payable at the end of each subperiod of the rolling period; and

(2) The fulcrum fee is computed on the basis of the asset value averaged over the most recent subperiod or subperiods of the rolling period.

(Secs. 205, 106A, 211; 54 Stat. 852, 855; 84 Stat. 1433, 15 U.S.C. 80b-5, 80b-6a, 80b-11)
 [37 FR 24896, Nov. 22, 1972]

§ 275.205-3 Exemption from the compensation prohibition of section 205(a)(1) for registered investment advisers.

(a) *General.* The provisions of section 205(a)(1) of the Act (15 U.S.C. 80b-5(a)(1)) shall not prohibit any investment adviser from entering into, performing, renewing or extending an investment advisory contract that provides for compensation to the investment adviser on the basis of a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds, of a client, *Provided, That* all the conditions in this section are satisfied.

(b) *Nature of the client.* (1) The client entering into the contract subject to this rule must be (i) a natural person or a company, as defined in paragraphs (b)(2) and (g)(1) of this section, who immediately after entering into the contract has at least \$500,000 under the management of the investment adviser; or (ii) a person who the registered investment adviser (and any person acting on his behalf) entering into the contract reasonably believes, immediately prior to entering in to the contract, is a natural person or a company, as defined in paragraphs (b)(2)