

MINUTES OF MEETING
SPECIAL COMMITTEE ON COOPERATION WITH
SECURITIES AND EXCHANGE COMMISSION

January 3, 1941

A meeting of the American Institute of Accountants' special committee on cooperation with Securities and Exchange Commission was held at the offices of the Institute, 13 East 41st Street, New York, N. Y., Friday, January 3, 1941.

Present:

Homer N. Sweet, chairman
William H. Bell
Charles B. Couchman
Paul K. Knight
David L. Milne
Warren W. Nissley
John L. Carey, secretary

Paul Bartholet, representing a committee of investment companies, was present by invitation.

Discussion centered about the draft of proposed rule N-19-1 to be issued under Section 19 of the Investment Company Act of 1940, and an interpretive letter related to the draft of the rule, addressed to Mr. Bartholet by David Schenker, director of the Investment Company Division, S.E.C.

The following suggestions were considered:

That the paragraph dealing with equalization charges in the interpretive letter be included in the rule.

That “accumulated undistributed net income” would properly be computed under the Act without consideration of losses in prior years, or of dividends paid from capital or from gains on sale of securities in prior years.

That as a rule of thumb, in attempting to segregate dividends paid in the past, it be assumed that dividends were paid first in order from net income, next from gains on sale of securities and last from capital surplus, to the extent that they existed at the time.

That the principle of “annual stops” be written into the next draft of the rule.

That the year 1925 be established as a cut-off date, back of which there would be no requirements of segregation of dividends paid from “true net income” and from gains on sales of securities or capital.

That from Paragraph (a) (4) the phrase “or preceding fiscal,” be omitted.

That a provision be included in the rule that companies need not rely on Section 19 (1) of the Act unless they so desired, i.e., if the difficulty of distinguishing between undistributed net income and profit and losses on sales of securities were so great as to make the determination impracticable, the company might make an explanatory statement indicating that an undetermined part of the dividend arose from sources other than net income.

That from the first sentence of Paragraph (b) of the proposed rule the phrase “of accumulated net realized losses on the sale of portfolio securities” be omitted.

That the second paragraph under Section (b) be omitted.

That in the first sentence of Section (c), following the phrase “on the basis of the fiscal year,” the following phrase be inserted: “or the current year up to the close of the dividend period.”

That in sub-section (1) of Section (c) the word “dividend” be inserted between the words “such” and “period.”

With reference to the sub-paragraph (B) of Section (c) (1), that the semi-annual report to stockholders would convey sufficient information regarding correction of estimates of allocation of earlier dividend payments without necessity for a special statement to stockholders regarding corrections of errors in such estimates.

That sub-paragraph (C) of Section (c) (1) be deleted.

That the provision in sub-section (2) of Section (c) regarding “restoration” from earnings at the end of the year of dividend payments for dividend periods earlier in the year was unnecessary and undesirable.

That the first paragraph of Section (d) be eliminated.

That a provision be inserted, as a stop-gap until completion of the accounting rules to be issued under the Act, that companies in doubt as to a fair segregation of undistributed net income from gains on sale of securities be permitted to make such explanation as they felt best reflected the facts in all the circumstances.

That a provision be inserted in the interpretive letter covering the status of companies which have gone through quasi-reorganization.