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July 31, 1985

Investment Company Act  
Section 17(f)  
Section 18(f)

Ms. Stephanie L. Monaco  
Division of Investment Management  
Securities and Exchange Commission  
Judiciary Plaza  
450 Fifth Street, N.W.  
Washington, D.C. 20549

Act	I CA - 40
Section	18(f)
Public	
Availability	9/23/85

Re: Thomson McKinnon Government Securities  
Fund (File No. 2-96098) (the "Free-Standing Trust")  
and Thomson McKinnon Investment Trust,  
U.S. Government Fund (File No. 2-87203)  
(the "Fund")--Transactions in Interest  
Rate Futures Contracts and Options on  
Interest Rate Futures Contracts

Dear Ms. Monaco:

Pursuant to your recent telephone conversation with Peter MacDougall of this office, I hereby withdraw the no-action request dated June 20, 1985, submitted on behalf of the Free-Standing Fund and substitute therefor the no-action request contained herein, which is made with respect to the Fund.

The Free-Standing Trust was an investment company organized as a Massachusetts business trust. Thomson McKinnon Securities Inc., the sponsor of the Free-Standing Trust, subsequently determined that it would be preferable to organize the Free-Standing Trust as a series of the Thomson McKinnon Investment Trust (the "Trust"). The Trust is a diversified open-end investment company which was established as a Massachusetts business trust under the laws of Massachusetts by an Agreement and Declaration of Trust dated October 14, 1983. On June 18, the Trust filed with

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the Securities and Exchange Commission (the "Commission") a post-effective amendment to its registration statement reflecting the creation of the Thomson McKinnon U.S. Government Fund, a series of the Trust's shares of beneficial interest. Three copies each of the Prospectus and Statement of Additional Information included in such post-effective amendment are enclosed herewith (the "Prospectus" and the "Statement of Additional Information", respectively).

The Fund is managed by Thomson McKinnon Asset Management Inc. Thomson McKinnon Securities Inc. is the distributor of Fund shares. As stated in its Prospectus, the Fund's investment objective is high current income, consistent with preservation of capital, through investment in securities issued or guaranteed as to principal and interest by the U.S. Government, its agencies, authorities or instrumentalities ("U.S. Government Securities"). The Fund will be permitted to hedge against interest rate changes through the use of interest rate futures ("futures") contracts and options thereon. The Fund may purchase and sell futures contracts with respect to U.S. Government Securities and purchase and write call and put options on such futures contracts.

Futures contracts and options thereon, and the commodities exchanges on which they are traded, are subject to regulation by the Commodities Futures Trading Commission ("CFTC") under the Commodities Exchange Act ("CEA"). The Prospectus provides that the Fund will not engage in transactions in futures contracts and options on futures contracts until it obtains appropriate regulatory relief from the CFTC and from the Commission. The Fund concurrently herewith is filing with the CFTC (i) a notice of eligibility to claim the exclusion from the definition of "commodity pool operator" in Section 2(a)(1)(A) of the CEA that is provided in Rule 4.5 under the CEA, 17 CFR § 4.5 (the "CFTC Notice") and (ii) a request that the CFTC issue a letter that the Fund will not be treated as a "pool" as defined in Section 4.10(d) of the CFTC's General Regulations and that the Fund will not be a "commodity pool operator" as a result of writing options on futures contracts.

In connection with this "no-action" letter request the Fund represents as follows:

No consideration will be paid or received by the Fund upon the purchase or sale of a futures contract or upon the

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sale of a call or put option on a futures contract which the Fund has written. Initially, the Fund will be required to deposit, for the account and in the name of the broker, in a segregated account with The Bank of New York, the Trust's custodian (The Bank of New York and any successor custodian are referred to herein as the "Custodian"), an amount of cash or United States Treasury bills which generally is equal to approximately 1 1/2% of the contract amount in the case of a futures contract, or, upon the sale of an option on a futures contract, a specific dollar amount for each written option. This amount is known as initial margin. The nature of initial margin in futures transactions and in written options on futures is different from that of margin in security transactions in that futures contracts and written options margin does not involve the borrowing of funds by the customer to finance the transactions. The initial margin is in the nature of a performance bond or good faith deposit on the contract which is returned to the Trust upon termination of the futures contract, assuming all contractual obligations have been satisfied, or upon the closing of written options. Subsequent payments, called variation margin, to and from the broker, a process known as "marking to market," will be made on a daily basis as the price of the futures contract fluctuates, thereby making the long and short positions in the futures contract more or less valuable, or as the price of the written option fluctuates. Variation margin does not represent a borrowing of or loan by the Fund but is instead the daily settlement between the Fund and the broker of the amount one would owe the other if on such day the contract expired or the written option was exercised. The broker has access to the amount of initial margin on deposit only if the Fund defaults in making payments of variation margin, and only after notice given by the broker to the Fund accompanied by the broker's statement to the Custodian that all conditions precedent to its rights to reach the initial margin have been satisfied.

The Fund undertakes that, on the occasions that it has the right to receive variation margin payments from the broker, it will promptly demand payment by the broker of such amounts upon notification by the broker that such amounts are payable. Any such funds received by the Fund will be held by the Custodian. At any time prior to expiration of the futures contract or the written option, the Fund may elect to close the position by taking an opposite position, which will operate to terminate the Fund's position in the futures contract or the written option. A final determination of variation margin will then

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be made, and if additional cash is required to be paid by or released to the Fund, the Fund will realize a loss or a gain.

The Fund's futures contracts and options on futures contracts are governed by the terms and conditions of such contracts determined by the exchanges on which such contracts are traded, and its futures and related option positions are evidenced by confirmations of transactions received from the executing broker. The Fund undertakes that the Custodian will have copies of such exchange terms and conditions and that the Custodian will have possession of such confirmations.

The Fund represents that it stated in its CFTC Notice that its purchase and sale of futures contracts and options on futures contracts will be solely for bona fide hedging purposes. Thus, the Fund will not engage in such transactions in futures contracts or options thereon for speculation but only as a hedge against changes resulting from market conditions in the values of securities which are held by the Fund or which the Fund intends to acquire.

The Fund further represents that it stated in its CFTC Notice that it will not purchase or sell futures contracts or purchase or write related options if, immediately thereafter, the sum of the amount of initial margin deposits on the Fund's existing futures and options on futures positions and premiums paid for unexpired options on futures would exceed 5% of the market value of the Fund's total assets.

The Fund represents that, in connection with its purchase of futures contracts and its purchase of call options thereon, it will deposit cash or money market instruments equal to the market value of the futures contracts purchased and the exercise price of call options on futures contracts purchased and put options on futures contracts written (less in each case any margin deposits thereon, which are held by the Custodian in a separate segregated account) in a segregated account with the Custodian to collateralize such long positions. Such deposited assets will not be used to support any other transactions in which the Fund may engage. Collateralization of long futures contracts and call options thereon which it has purchased and put options which it has written prevents the Fund from leveraging through the use of such futures and related options. Collateralization to

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insure that the Fund's use of such instruments is unleveraged is consistent with the conditions which the Commission prescribed in Investment Company Act Release No. 10666 ("Release No. 1066") to prevent investment companies from leveraging through the use of reverse repurchase agreements, standby commitments and similar arrangements.

The Fund represents that it will not maintain open short positions in futures contracts if, in the aggregate, the value of its open positions (marked to market) exceeds the current market value of its securities portfolio plus or minus the unrealized gain or loss on such open positions, adjusted for the historical volatility relationship between the portfolio and futures contracts. If the Fund exceeds this limitation at any time, it will take prompt action to close out the appropriate number of open contracts to bring its open futures position within this limitation.

Section 18(f)(1) of the 1940 Act limits the issuance of senior securities by an open-end registered investment company. A financial futures contract or the sale of a related option may, because of the Trust's contingent obligation to pay variation margin during the life of the contract, constitute a "senior security" (as that term is defined in Section 18(g) of the Act) for the purpose of Section 18(f). Since such an obligation would not run to a bank, the purchase or sale of a futures contract or the sale of an option thereon by the Trust may constitute the issuance of a senior security by the Trust in violation of Section 18(f)(1) of the Act. In addition, to the extent that variation margin payments to the Trust in connection with a futures contract or the sale of a related option are held overnight by a broker, the Trust may be unable to comply with the provisions of Section 17(f) of the Act.

The Trust requests your advice to the effect that the Division of Investment Management would not recommend enforcement action to the Securities and Exchange Commission under the provisions of Section 18(f)(1) and 17(f) of the Act with respect to the Fund's proposed transactions in financial futures contracts and related options.

The Trust does not believe that is a settled question whether financial futures contracts and related options are "securities" within the meaning of Section 2(a)(36) of the Act. If such contracts and options are not securities under Section 2(a)(36), they cannot constitute "senior securities" under Section 18(g) or be subject to regulation under

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Section 18(f)(1). Even if such contracts and options are securities under Section 2(a)(36), and further are considered to be senior securities under Section 18(f) of the Act, the proposed use by and limitations on the Trust with respect to such contracts and options do not give rise to the speculative abuses which Section 18(f)(1) was designed to prevent. The limitations on the Trust's use of such contracts and options and the requirement, in connection with the purchase of a futures contract, that the Trust deposit in a segregated account cash or cash equivalents equal to the market value of such futures contract are, in fact, consistent with the procedures set forth in Release No. 10666 to minimize the speculative aspects of the leveraged investments which were the subject of Release No. 10666.

The Trust also believes that, if financial futures contracts and related options are "securities" or "similar investments" within the meaning of Section 17(f) of the Act, separate custodian, safekeeping and procedural agreements among the Trust, the Custodian and the futures commission merchant, pursuant to which the Trust's margin deposits are held by the Custodian subject to disposition by the futures commission merchant in accordance with the CFTC Rules and the rules of the applicable commodities exchange, will be consistent with the provisions of Section 17(f).

We refer you to the following no-action letters previously issued by the staff of the Commission with respect to the foregoing issues. IDS Bond Fund, Inc. (available April 11, 1983), SteinRoe Bond Fund, Inc. (available January 17, 1984), Pension Hedge Fund, Inc. (available January 20, 1984), Z-Seven Fund Inc. (available May 21, 1984), Colonial Option Growth Trust (available June 15, 1984), Colonial Government Securities Plus Trust (available June 15, 1984), Colonial Option Income Trust -- Portfolio II (available September 10, 1984), Pilot Fund, Inc. (available October 22, 1984).

Your advice is requested to the effect that the Division of Investment Management would not recommend enforcement action to the Securities and Exchange Commission under the provisions of Section 18(f)(1) or 17(f) of the Act with respect to the Trust's proposed transactions in financial futures contracts and related options.

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If further information is required with respect to this request, please contact the undersigned or J.B. Kittredge of this office.

Please date-stamp the enclosed copy of this letter to indicate receipt of this filing and return the stamped copy to the messenger making the filing.

Thank you.

Very truly yours,

Brian D. Kilb

Enclosures

cc: Mr. Robert A. Prindiville  
Newton B. Schott, Jr., Esquire  
J.B. Kittredge, Esquire

**PUBLIC**

AUG 23 1985

RESPONSE OF THE OFFICE OF CHIEF COUNSEL  
DIVISION OF INVESTMENT MANAGEMENT

Our Ref. No. 85-408-CC  
Thomson McKinnon Investment Trust  
File No. 811-3881

On several occasions, we have stated that we would not recommend any enforcement action to the Commission under Section 18 of the Investment Company Act of 1940 ("Act") if a registered investment company ("fund") enters into futures and options transactions as described below:

1. sells futures contracts to offset expected declines in the value of its portfolio securities, provided the value of such futures contracts does not exceed the total market value of those securities; 1/
2. writes covered call options on futures contracts, indexes of securities, or other securities; 2/
3. purchases futures contracts, provided it creates a segregated account consisting of cash or cash equivalents in an amount equal to the total market value of any such futures contract, less the amount of initial margin for the contract; 3/ and
4. writes covered put options on futures contracts, indexes of securities, or other securities. 4/

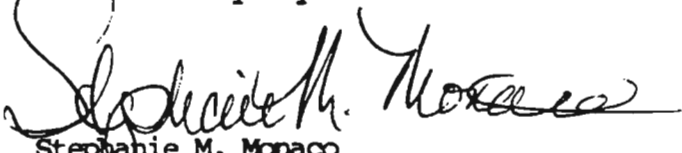
E.g., GMD Core Trust (pub. avail. Aug. 19, 1985), Koenig Tax-Advantaged Liquidity Fund, Inc. (pub. avail. March 27, 1985), Z-Seven Fund, Inc. (pub. avail. May 21, 1984), Pension Hedge Fund, Inc. (pub. avail. Jan. 20, 1984), and SteinRoe Bond Fund, Inc. (pub. avail. Jan. 17, 1984)[hereinafter cited as Supporting Letters].

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- 1/ We have not objected if the total market value of futures contracts a fund sells is more than the total market value of the fund's portfolio securities solely because of differences in the volatility factor of the portfolio securities vis-a-vis the futures contracts. Z-Seven Fund, Inc. (pub. avail. May 21, 1984).
  - 2/ A fund can cover a call option on a futures contract it writes by owning a long futures position. A fund can cover a call option on a stock index it writes by, for example, having a portfolio of securities which correlates with the stock index. Id. See Investment Company Act Rel. No. 7221 (June 9, 1972) ("Release 7221") for alternative methods by which a fund can cover call options.
  - 3/ In this regard, we no longer take the position that a fund may purchase a futures contract only for "hedging" purposes. Compare SteinRoe Bond Fund, Inc. (pub. avail. Jan. 17, 1984) (which permitted a fund to purchase futures contracts only for hedging purposes) with GMD Core Trust (pub. avail. Aug. 19, 1985) (which permitted a fund to purchase futures contracts without the hedging requirement). See Investment Company Act Rel. No. 10666 (April 18, 1979) for a discussion of segregated accounts.
  - 4/ A fund can cover a put option on a futures contract it writes by owning a short futures position. A fund may cover a put option on a stock index it writes only by complying with one of the alternatives stated in Release 7221. See Koenig Tax-Advantaged Liquidity Fund, Inc. (pub. avail. March 27, 1985).



In addition, we have stated that we would not recommend any enforcement action to the Commission under Section 17(f) of the Act if the initial margin for a futures contract is maintained by the fund's custodian in an account in the name of the fund's futures commission merchant ("FCM"), provided that the FCM is permitted access to the account only upon the fund's default on the contract. We also have stated that we would not recommend any enforcement action to the Commission if the fund's FCM temporarily retains excess variation margin gains overnight or over a weekend. E.g., Supporting Letters.

Having stated our interpretation of these provisions in this context, we will no longer respond to no-action requests in this area unless they raise novel or unique questions.

  
Stephanie M. Monaco  
Attorney