

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28987; 812-13482]

MFS Government Markets Income Trust et al.; Notice of Application

October 29, 2009

Agency: Securities and Exchange Commission (“Commission”).

Action: Notice of application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from section 19(b) of the Act and rule 19b-1 under the Act.

Summary of Application: Applicants request an order to permit certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common stock as frequently as twelve times each year, and as frequently as distributions are specified by or in accordance with the terms of any outstanding preferred stock that such investment companies may issue.

Applicants: MFS Government Markets Income Trust, MFS Intermediate Income Trust (together, the “Current Funds”), and Massachusetts Financial Services Company (the “Adviser”).

Filing Dates: January 22, 2008, February 9, 2009 and May 27, 2009.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 23, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the

issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

Addresses: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549-1090; Applicants, c/o Massachusetts Financial Services Company, 500 Boylston Street, Boston, MA 02116, Attention: Mark N. Polebaum, Esq.

For Further Information Contact: Wendy Friedlander, Senior Counsel, at (202) 551-6837, or James M. Curtis, Branch Chief, at (202) 551-6825 (Division of Investment Management, Office of Chief Counsel).

Supplementary Information: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm>, or by calling (202) 551-8090.

Applicants' Representations:

1. The Current Funds are registered closed-end management investment companies organized as Massachusetts business trusts. The Current Funds' primary investment objective is to provide high current income, and their secondary investment objective is capital appreciation.¹ The common stock of the Current Funds is listed and traded on the New York Stock Exchange. The Current Funds have not issued preferred stock.

¹ Applicants request that any order issued granting the relief requested in the application also apply to any closed-end investment company ("future fund") that in the future: (a) is advised by the Adviser (including any successor in interest) or by any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Adviser; and (b) complies with the terms and conditions of the requested order. A successor in interest is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

Applicants believe that the stockholders of the Current Funds may prefer an investment vehicle that provides regular/monthly distributions.

2. The Adviser is a Delaware corporation and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser is the investment adviser for the Current Funds. The Adviser is a wholly-owned subsidiary of Sun Life of Canada (U.S.) Financial Services Holdings, Inc., which is an indirect wholly-owned subsidiary of Sun Life Financial Inc.

3. Applicants represent that in 2007 each Current Fund adopted a level-distribution policy with respect to its common stock. Applicants represent that at that time each Current Fund had substantial capital loss carryforwards and realized and unrealized net capital losses in its portfolio sufficient to offset the Current Fund's long-term capital gains for a period of time. Applicants represent that the Adviser believes that each of the Current Funds will be able to continue to make distributions in accordance with its respective existing distribution policy for the time being without exceeding applicable limits in the Act on long-term capital gains distributions. Applicants represent that the Current Funds will make distributions of long-term capital gains more frequently than the applicable limits under the Act only if the requested order is granted. Applicants represent that any such distributions made in reliance on the order will comply with the terms and conditions of this application.

4. Applicants represent that prior to making distributions in reliance on the requested order, the Board of a fund, including a majority of the trustees who are not "interested persons" of the fund, as defined in section 2(a)(19) of the Act (the "Independent Trustees"), will have:

- (1) approved the fund’s adoption of the distribution policy (“Plan”);
- (2) requested and evaluated, and the Adviser shall have furnished, such information as may be reasonably necessary for an informed determination of whether the Plan should be adopted and implemented;
- (3) determined that adoption and implementation of the Plan is consistent with the fund’s investment objective(s) and policies and in the best interests of the fund and its shareholders, after considering the information in (2) above, including, without limitation:
 - (i) the purpose(s) of the Plan as stated in this application,
 - (ii) information about any potential or actual conflicts of interest that the Adviser, any affiliated person of the Adviser, or any other affiliated person of the fund may have relating to the adoption or implementation of the Plan,
 - (iii) whether the rate of distribution under the Plan will exceed the fund’s expected total return (in relation to NAV); and
 - (iv) the reasonably foreseeable material effects of the Plan on the fund’s long-term total return (in relation to market price and NAV);
- (4) approved the adoption of compliance policies and procedures in accordance with rule 38a-1 under the Act that:
 - (i) are reasonably designed to ensure that all notices required to be sent to fund shareholders pursuant to section 19(a) of the Act and rule 19a-1 thereunder (each a “Notice”) include the disclosure required by

rule 19a-1 and the conditions below, and that all other communications by the fund or its agents about distributions under the Plan include the disclosure required by the conditions below, and

(ii) require the fund to keep records that demonstrate its compliance with all of the conditions of the requested order and that are necessary for the fund to form the basis for, or demonstrate the calculation of, the amounts disclosed in its Notices; and

(5) recorded the information, pursuant to representation (3) above, considered by it and the basis for its approval of the Plan in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place or such longer period as may otherwise be required by law.

Applicants' Legal Analysis:

1. Section 19(b) generally makes it unlawful for any registered investment company to make long-term capital gains distributions more than once each year. Rule 19b-1 limits the number of capital gains dividends, as defined in section 852(b)(3)(C) of the Code ("distributions"), that a fund may make with respect to any one taxable year to one, plus a supplemental "clean up" distribution made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year, plus one additional capital gain dividend made in whole or in part to avoid the excise tax under section 4982 of the Code.

2. Section 6(c) provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class

or classes of persons, securities or transactions, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants state that the one of the concerns underlying section 19(b) and rule 19b-1 is that shareholders might be unable to differentiate between regular distributions of capital gains and distributions of investment income. Applicants state, however, that rule 19a-1 effectively addresses this concern by requiring that a separate statement showing the sources of a distribution (e.g., estimated net income, net short-term capital gains, net long-term capital gains and/or return of capital) accompany any distributions (or the confirmation of the reinvestment of distributions) estimated to be sourced in part from capital gains or capital. Applicants state that the same information also is included in the Current Funds' annual reports to shareholders and on their IRS Forms 1099-DIV, which are sent to each common and preferred shareholder who received distributions during the year.

4. Applicants further state that each of the funds will make the additional disclosures required by the conditions set forth below, and each of them has adopted or will adopt compliance policies and procedures in accordance with rule 38a-1 to ensure that all required Notices and disclosures are sent to shareholders. Applicants argue that by providing the information required by section 19(a) and rule 19a-1, and by complying with the procedures adopted under each Plan and the conditions listed below, the funds would ensure that each fund's shareholders are provided sufficient information to understand that their periodic distributions are not tied to the fund's net investment

income and realized capital gains to date, and may not represent yield or investment return.

5. Applicants note that section 19(b) and rule 19b-1 also were intended to prevent certain improper sales practices, including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming capital gains dividend (“selling the dividend”), where the dividend would result in an immediate corresponding reduction in NAV and would be in effect a taxable return of the investor’s capital. Applicants assert that a periodic payout policy will help avoid the buildup of large end-of-the-year distributions and accordingly will help to avoid the scenario in which an investor acquires shares that are subject to a large upcoming capital gains distribution.

6. Applicants also note that common shares of closed-end funds that invest primarily in equity securities often trade in the marketplace at a discount to their NAV. Applicants believe that this discount may be reduced for closed-end funds that pay relatively frequent dividends on their common shares at a consistent rate, whether or not those dividends contain an element of long-term capital gain.

7. Applicants assert that the application of rule 19b-1 to a Plan actually could have an undesirable influence on portfolio management decisions. Applicants state that, in the absence of an exemption from rule 19b-1, the implementation of a Plan imposes pressure on management to realize capital gains on a regular and frequent basis and at a time when pure investment considerations would dictate not doing so. Applicants thus assert that the requested order would enable the funds to realize long-term capital gains as often as investment consideration dictate without fear of violating rule 19b-1.

8. Applicants state that Revenue Ruling 89-81 under the Code requires that a fund that has both common stock and preferred stock outstanding designate the types of income, e.g., investment income and capital gains, in the same proportion as the total distributions distributed to each class for the tax year. To satisfy the proportionate designation requirements of Revenue Ruling 89-81, whenever a fund has realized a long-term capital gain with respect to a given tax year, the fund must designate the required proportionate share of such capital gain to be included in common and preferred stock dividends. Applicants state that although rule 19b-1 allows a fund some flexibility with respect to the frequency of capital gains distributions, a fund might use all of the exceptions available under the rule for a tax year and still need to distribute additional capital gains allocated to the preferred stock to comply with Revenue Ruling 89-81.

9. Applicants assert that the potential abuses addressed by section 19(b) and rule 19b-1 do not arise with respect to preferred stock issued by a closed-end fund. Applicants assert that such distributions are fixed or determined in periodic auctions by reference to short-term interest rates rather than by reference to performance of the issuer and Revenue Ruling 89-81 determines the proportion of such distributions that are comprised of the long-term capital gains.

10. Applicants also submit that the “selling the dividend” concern is not applicable to preferred stock, which entitles a holder to no more than a periodic dividend at a fixed rate or the rate determined by the market, and, like a debt security, is priced based upon its liquidation value, credit quality, and frequency of payment. Applicants state that investors buy preferred shares for the purpose of receiving payments at the frequency bargained for, and do not expect the liquidation value of their shares to change.

11. Applicants request an order under section 6(c) granting an exemption from the provisions of section 19(b) and rule 19b-1 to permit each fund's common stock to distribute periodic capital gains dividends (as defined in section 852(b)(3)(C) of the Code) as often as monthly in any one taxable year in respect of its common shares and as often as specified by or determined in accordance with the terms thereof in respect of its preferred shares.²

Applicants' Conditions:

Applicants agree that, with respect to each fund seeking to rely on the order, the order will be subject to the following conditions:

I. **Compliance Review and Reporting.** The fund's chief compliance officer will: (a) report to the fund Board, no less frequently than once every three months or at the next regularly scheduled quarterly board meeting, whether (i) the fund and the Adviser have complied with the conditions to the requested order, and (ii) a Material Compliance Matter, as defined in rule 38a-1(e)(2), has occurred with respect to compliance with such conditions; and (b) review the adequacy of the policies and procedures adopted by the fund no less frequently than annually.

II. **Disclosures to Fund Shareholders:**

A. Each Notice to the holders of the fund's common shares, in addition to the information required by section 19(a) and rule 19a-1:

1. will provide, in a tabular or graphical format:

² Applicants state that a future fund that relies on the requested order will satisfy each of the representations in the application except that such representations will be made in respect of actions by the board of directors of such future fund and will be made at a future time.

(a) the amount of the distribution, on a per common share basis, together with the amounts of such distribution amount, on a per common share basis and as a percentage of such distribution amount, from estimated: (A) net investment income; (B) net realized short-term capital gains; (C) net realized long-term capital gains; and (D) return of capital or other capital source;

(b) the fiscal year-to-date cumulative amount of distributions, on a per common share basis, together with the amounts of such cumulative amount, on a per common share basis and as a percentage of such cumulative amount of distributions, from estimated: (A) net investment income; (B) net realized short-term capital gains; (C) net realized long-term capital gains; and (D) return of capital or other capital source;

(c) the average annual total return in relation to the change in NAV for the 5-year period (or, if the fund's history of operations is less than five years, the time period commencing immediately following the fund's first public offering) ending on the last day of the month prior to the most recent distribution declaration date compared to the current fiscal period's annualized distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution declaration date; and

(d) the cumulative total return in relation to the change in NAV from the last completed fiscal year to the last day of the month prior to the most recent distribution declaration date compared to the fiscal year-to-date cumulative distribution rate expressed as a percentage of NAV as of the last day of the month prior to the most recent distribution declaration date.

Such disclosure shall be made in a type size at least as large and as prominent as the estimate of the sources of the current distribution; and

2. will include the following disclosure:

(a) “You should not draw any conclusions about the fund’s investment performance from the amount of this distribution or from the terms of the fund’s Plan”;

(b) “The fund estimates that it has distributed more than its income and net realized capital gains; therefore, a portion of your distribution may be a return of capital. A return of capital may occur for example, when some or all of the money that you invested in the fund is paid back to you. A return of capital distribution does not necessarily reflect the fund’s investment performance and should not be confused with ‘yield’ or ‘income’”,³ and

(c) “The amounts and sources of distributions reported in this Notice are only estimates and are not being provided for tax reporting purposes. The actual amounts and sources of the amounts for tax reporting purposes will depend upon the fund’s investment experience during the remainder of its fiscal year and may be subject to changes based on tax regulations. The fund will send you a Form 1099-DIV for the calendar year that will tell you how to report these distributions for federal income tax purposes.”

Such disclosure shall be made in a type size at least as large as and as prominent as any other information in the Notice and placed on the same page in close proximity to the amount and the sources of the distribution.

³ This disclosure will be included only if the current distribution or the fiscal year-to-date cumulative distributions are estimated to include a return of capital.

B. On the inside front cover of each report to shareholders under rule 30e-1 under the Act, the fund will:

1. describe the terms of the Plan (including the fixed amount or fixed percentage of the distributions and the frequency of the distributions);
2. include the disclosure required by condition II.A.2.a above;
3. state, if applicable, that the Plan provides that the Board may amend or terminate the Plan at any time without prior notice to fund shareholders; and
4. describe any reasonably foreseeable circumstances that might cause the fund to terminate the Plan and any reasonably foreseeable consequences of such termination.

C. Each report provided to shareholders under rule 30e-1 and in each prospectus filed with the Commission on Form N-2 under the Act, will provide the fund's total return in relation to changes in NAV in the financial highlights table and in any discussion about the fund's total return.

III. Disclosure to Shareholders, Prospective Shareholders and Third Parties:

A. The fund will include the information contained in the relevant Notice, including the disclosure required by condition II.A.2 above, in any written communication (other than a Form 1099) about the Plan or distributions under the Plan by the fund, or agents that the fund has authorized to make such communication on the fund's behalf, to any fund common shareholder, prospective common shareholder or third-party information provider;

B. The fund will issue, contemporaneously with the issuance of any Notice, a press release containing the information in the Notice and will file with the Commission

the information contained in such Notice, including the disclosure required by condition II.A.2 above, as an exhibit to its next filed Form N-CSR; and

C. The fund will post prominently a statement on its (or the Adviser's) Web site containing the information in each Notice, including the disclosure required by condition II.A.2 above, and will maintain such information on such Web site for at least 24 months.

IV. Delivery of Notices to Beneficial Owners: If a broker, dealer, bank or other person ("financial intermediary") holds common stock issued by the fund in nominee name, or otherwise, on behalf of a beneficial owner, the fund: (a) will request that the financial intermediary, or its agent, forward the Notice to all beneficial owners of the fund's shares held through such financial intermediary; (b) will provide, in a timely manner, to the financial intermediary, or its agent, enough copies of the Notice assembled in the form and at the place that the financial intermediary, or its agent, reasonably requests to facilitate the financial intermediary's sending of the Notice to each beneficial owner of the fund's shares; and (c) upon the request of any financial intermediary, or its agent, that receives copies of the Notice, will pay the financial intermediary, or its agent, the reasonable expenses of sending the Notice to such beneficial owners.

V. Additional Board Determinations for Funds Whose Shares Trade at a Premium: If:

A. The fund's common shares have traded on the exchange that they primarily trade on at the time in question at an average premium to NAV equal to or greater than 10%, as determined on the basis of the average of the discount or premium to NAV of the fund's common shares as of the close of each trading day over a 12-week rolling period (each such 12-week rolling period ending on the last trading day of each week); and

B. The fund's annualized distribution rate for such 12-week rolling period, expressed as a percentage of NAV as of the ending date of such 12-week rolling period, is greater than the fund's average annual total return in relation to the change in NAV over the 2-year period ending on the last day of such 12-week rolling period; then:

1. At the earlier of the next regularly scheduled meeting or within four months of the last day of such 12-week rolling period, the Board including a majority of

the Independent Directors:

(a) will request and evaluate, and the Adviser will furnish, such information as may be reasonably necessary to make an informed determination of whether the Plan should be continued or continued after amendment;

(b) will determine whether continuation, or continuation after amendment, of the Plan is consistent with the fund's investment objective(s) and policies and in the best interests of the fund and its shareholders, after considering the information in condition V.B.1.a above; including, without limitation:

(1) whether the Plan is accomplishing its purpose(s);

(2) the reasonably foreseeable effects of the Plan on the fund's long-term total return in relation to the market price and NAV of the fund's common shares; and

(3) the fund's current distribution rate, as described in condition V.B above, compared to with the fund's average annual total return over the 2-year period, as described in condition V.B, or such longer period as the board deems appropriate; and

(c) based upon that determination, will approve or disapprove the continuation, or continuation after amendment, of the Plan; and

2. The Board will record the information considered by it and the basis for its approval or disapproval of the continuation, or continuation after amendment, of the Plan in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place.

VI. Public Offerings: The fund will not make a public offering of the fund's common shares other than:

- A. a rights offering below NAV to holders of the fund's common stock;
- B. an offering in connection with a dividend reinvestment plan, merger, consolidation, acquisition, spin-off or reorganization of the fund; or
- C. an offering other than an offering described in conditions VI.A and VI.B above, unless, with respect to such other offering:
 - 1. the fund's annualized distribution rate for the six months ending on the last day of the month ended immediately prior to the most recent distribution declaration date,⁴ expressed as a percentage of NAV per share as of such date, is no more than 1 percentage point greater than the fund's average annual total return for the 5-year period ending on such date;⁵ and

⁴ If the fund has been in operation fewer than six months, the measured period will begin immediately following the fund's first public offering.

⁵ If the fund has been in operation fewer than five years, the measured period will begin immediately following the fund's first public offering.

2. the transmittal letter accompanying any registration statement filed with the Commission in connection with such offering discloses that the fund has received an order under section 19(b) to permit it to make periodic distributions of long-term capital gains with respect to its common stock as frequently as twelve times each year, and as frequently as distributions are specified in accordance with the terms of any outstanding preferred stock that such fund may issue.

VII. Amendments to Rule 19b-1: The requested relief will expire on the effective date of any amendment to rule 19b-1 that provides relief permitting certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common stock as frequently as twelve times each year.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon
Deputy Secretary