§ 54.90 Issuance of bonds or notes with variable rates of interest. a. Whenever in the judgment of the finance board the interest of a municipality would be served thereby, the municipality may issue bonds or notes, on or before July fifteenth, two thousand twenty-seven, with interest rates that vary in accordance with a formula or procedure and are subject to a maximum rate of interest set forth or referred to in the bonds or notes and may provide the holders thereof with such rights to require the municipality or other persons to purchase such bonds or notes or renewals thereof from the proceeds of the resale thereof or otherwise from time to time prior to the final maturity of such bonds or notes as the finance board may determine and the municipality may resell, at any time prior to final maturity, any such bonds or notes acquired as a result of the exercise of such rights; provided, however, that at no time shall the total principal amount of bonds and notes issued pursuant to this paragraph (other than bonds and notes bearing interest at rates and for periods of time that are specified at issuance) exceed ten percent of the limit prescribed by section 104.00 of this article.

Notwithstanding the foregoing, the holders of bonds or notes sold pursuant to this paragraph shall not be provided with the right to require the municipality or other persons to repurchase the bonds or notes prior to the final maturity thereof unless the municipality has entered into one or more letter of credit agreements or liquidity facility agreements for the express purpose of such sale, which agreements the municipality is hereby authorized to enter into, and which shall require a financially responsible party or parties to the agreement or agreements, as defined by section 2.00 of this chapter, other than the municipality to purchase all or any portion of such bonds or notes tendered by the holders thereof for repurchase prior to the final maturity of such bonds or notes until such time as the right of the holders of such bonds or notes to require repurchase of such bonds or notes prior to the final maturity thereof shall cease.

Notwithstanding the foregoing, whenever in the judgment of the finance board of the city of New York the interest of such city would be served thereby, the city of New York may without further approval issue bonds

or notes, on or before July fifteenth, two thousand twenty-seven, with interest rates that vary in accordance with a formula or procedure and are subject to a maximum rate of interest set forth or referred to in the bonds or notes and may provide the holders thereof with such rights to require the city or other persons to purchase such bonds or notes or renewals thereof from the proceeds of the resale thereof or otherwise from time to time prior to the final maturity of such bonds or notes as the finance board of the city of New York may determine and the city may resell, at any time prior to final maturity, any such bonds or notes acquired as a result of the exercise of such rights; provided, however, that at no time shall the total principal amount of bonds and notes issued by the city of New York pursuant to this paragraph (other than bonds and notes (1) bearing interest at rates and for periods of time that are specified without reference to future events or contingencies, or (2) described in section 136.00 of this article) exceed twenty-five percent of the limit prescribed by section 104.00 of this article.

b. To facilitate the marketing of any issue of bonds and notes issued pursuant to this section, such municipality may, notwithstanding any limitation on private sale of bonds and notes provided by law, and subject to rules promulgated by the state comptroller governing such sales: (i) arrange for the underwriting of such bonds and notes at private sale through negotiated agreement, compensation for such underwriting to be provided by negotiated fee or by sale of such bonds and notes to an underwriter at a price of less than the sum of par value of, and accrued interest on, such obligations; or (ii) arrange for the private sale of such bonds and notes through negotiated agreement, compensation for such sale to be provided by negotiated fee, if required. The cost of such underwriting or private placement shall be deemed a preliminary cost for the purposes of section 11.00 of this chapter.

c. The finance board of such municipality is hereby authorized and empowered, in conformance with paragraphs c through g of section 168.00 of this chapter, to enter into such agreements as it deems reasonable and appropriate to facilitate the issuance, sale, resale and repurchase of such bonds and notes, including but not limited to agreements with

financially responsible third parties for the remarketing or repurchase of such bonds and notes in accordance with terms and conditions determined by such finance board, provided, however, that no such agreement shall cause or have the effect of causing any annual principal installment of an issue of serial bonds to be more than fifty per centum in excess of the smallest prior installment unless the finance board has determined to provide for substantially level or declining annual debt service payments in accordance with paragraph d of section 21.00 of this chapter, in which case no such agreement shall cause or have the effect of causing any annual principal installment of an issue to vary from the amounts determined by the finance board to be required to comply with such paragraph at the time of issuance of the bonds or notes. The finance board may, by resolution, delegate its power to contract pursuant to this section to the chief fiscal officer, as defined in section 2.00 of this chapter, of such public body in which event the chief fiscal officer shall exercise such power until the finance board, by resolution, shall elect to reassume the same. For purposes of this section, the finance board of the city of New York shall mean the mayor and the city comptroller.

d. 1. On or before July fifteenth, two thousand twenty-seven the mayor and comptroller of the city of New York may:

(i) enter into interest rate exchange or similar agreements with any person under such terms and conditions as the mayor and comptroller may determine, including provisions as to default or early termination and indemnification by the city or any other party thereto for loss of benefits as a result thereof;

(ii) procure insurance, letters of credit or other credit enhancement with respect to such agreements;

(iii) provide security for the payment or performance of its obligations with respect to agreements described in item (i) of this subdivision from such sources and with the same effect as is authorized by applicable law with respect to security for its bonds, notes or other obligations, provided, however, that any payment or performance of obligations with respect to agreements described in item (i) of this subdivision in connection with debt obligations which carry the full faith and credit of the city shall be subject to appropriation; and

(iv) modify, amend, or replace such agreements.

2. For the purposes of this paragraph:

(i) "Interest rate exchange or similar agreement" shall mean a written contract entered into in connection with the issuance of city debt, or in connection with such city debt already outstanding, with a counterparty to provide for an exchange of payments based upon fixed and/or variable interest rates, and shall be for exchanges in currency of the United States of America only.

(ii) "Excluded agreements" shall mean the total notional amount of interest rate exchange or similar agreements entered into for the purpose of reducing or eliminating a situation of risk or exposure under an existing interest rate exchange or similar agreement, including, but not limited to a counterparty downgrade, default, or other actual or potential economic loss.

(iii) Interest rate exchange; limitations. Any interest rate exchange or similar agreements entered into pursuant to item (i) of subdivision one of this paragraph shall be subject to the following limitations:

(A) the counterparty thereto shall have credit ratings from at least one nationally recognized statistical rating agency that is within the two highest investment grade categories and ratings which are obtained from any other nationally recognized statistical rating agencies shall also be within the three highest investment grade categories, or the payment obligations of the counterparty shall be unconditionally guaranteed by an entity with such credit ratings;

(B) the written contract shall require that should the rating: (I) of the counterparty, if its payment obligations are not unconditionally guaranteed by another entity, or (II) of the entity unconditionally guaranteeing its payment obligations, if so secured, fall below the rating required by clause (A) of this item, that the obligations of such counterparty shall be fully and continuously collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America, or any agency thereof with a net market value of at least one hundred two percent of the net market value of the contract to the authorized issuer and such collateral shall be deposited with the authorized issuer or an agent thereof;

(C) the total notional amount of all interest rate exchange or similar

agreements shall not exceed an amount equal to twenty-five percent of the limit prescribed by section 104.00 of this chapter; provided, however, that such total notional amount shall not include any excluded agreements;

(D) no interest rate exchange or similar agreement shall have a maturity exceeding the maturity of related city debt; and

(E) each interest rate exchange or similar agreement shall be subject to an independent finding that its terms and conditions reflect a fair market value of such agreement as of the date of its execution, regardless of whether such agreement was solicited on a competitive or negotiated basis.

3. (i) Prior to authorizing the approval of any contract for interest rate exchange or similar agreement pursuant to subdivision one of this paragraph, the finance board of the city shall adopt guidelines for the use of interest rate exchange or similar agreements which shall include, but not be limited to the following:

(A) the conditions under which such contracts can be entered into;

(B) the methods by which such contracts are to be solicited and procured;

(C) the form and content such contracts shall take;

(D) the aspects of risk exposure associated with such contracts;

(E) standards and procedures for counterparty selection;

(F) standards for the procurement of credit enhancement, liquidity facilities, or the setting aside of reserves in connection with such contracts consistent with the limitations of section 168.00 of this chapter;

(G) provisions for collateralization or other requirements for securing the financial interest in such contracts;

(H) the long-term implications associated with entering into such agreements, such as costs of borrowing, historical trends, use of capacity for variable rate bonds and related credit enhancements, and any potential impact on the future ability to call bonds, including opportunities to refund related debt obligations, and similar considerations;

(I) the methods to be used to reflect such contracts in the city's financial statements;

(J) financial monitoring and periodic assessment of such contracts by the city; and

(K) such other matters relating thereto as the finance board shall deem necessary and proper.

(ii) The city shall issue a quarterly report to the director of the budget, the chairs of the senate finance committee and the assembly ways and means committee, and the state comptroller, on or before the fifteenth day of each month following the end of each such quarter in which it enters into or continues to be a party to a contract for interest rate exchange or similar agreement, which shall list all such contracts entered into pursuant to this section and shall include, but not be limited to, the following information for each such contract, as applicable:

(A) a description of the contract, including a summary of the terms and conditions, rates, maturity, the estimated market value of each agreement, and other provisions thereof and the method of procurement;

(B) any amounts which were required to be paid and received, and any amounts which actually were paid and received thereunder;

(C) any credit enhancement, liquidity facility or reserves associated therewith including an accounting of all costs and expenses incurred, whether or not in conjunction with the procurement of credit enhancement or liquidity facilities;

(D) a description of each counterparty;

(E) an assessment of the counterparty risk, termination risk, and other risks associated therewith; and

(F) such report shall include a copy of the guidelines required by item (i) of this subdivision in the quarter after they are adopted or subsequently modified.