continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract owners. Accordingly, such Participating Insurance Companies, where applicable, will vote shares of the Insurance Products fund held in their separate accounts in a manner consistent with voting instructions timely received from Variable Contract owners. In addition, each Participating Insurance Company will vote shares of the Insurance Product Fund held in its separate account for which it has not received timely voting instructions from contract owners, as well as shares it owns, in the same proportion as those shares for which it has received voting instructions. Participating Insurance Companies will be responsible for assuring that each of their separate accounts investing in an Insurance Products Fund calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to vote an Insurance Products Fund's shares and calculate voting privileges in a manner consistent with all other separate accounts investing in the Insurance Products Fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Insurance Products Fund. Each Plan will vote as required by applicable law and governing Plan documents.

8. As long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract owners, the Adviser (or any of its affiliates) will vote its shares of any series of any Insurance Products Fund in the same proportion as all Variable Contract owners having voting rights with respect to that series; provided, however, that the Adviser (or any of its affiliates) shall vote its shares in such other manner as may be required by the Commission or its staff.

9. All reports of potential or existing conflicts received by a Board, and all Board action with regard to: (a) Determining the existence of a conflict; (b) notifying Participants of a conflict; and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of meetings of the appropriate Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

10. Each Insurance Products Fund will notify all participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Insurance Products Fund shall disclose in its prospectus that: (a) Its shares may be offered to insurance company separate accounts that fund both variable annuity and variable life insurance contracts, and to Qualified Plans; (b) differences in tax treatment or other considerations may cause the interests of various Variable Contract owners participating in the Insurance Products Fund and the interests of Qualified Plans investing in the Insurance Products Fund to conflict; and (c) the Board will monitor the Insurance Products Fund for any material conflicts and determine what action, if any, should be taken.

11. Each Insurance Products Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (for these purposes, the persons having a voting interest in the shares of the Insurance Products Funds). In particular, each such Insurance Products Fund either will provide for annual shareholder meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings or comply with Section 16(c) of the 1940 Act (although none of the Insurance Products Funds shall be one of the trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, each Insurance Products Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of Board members and with whatever rules the Commission may promulgate with respect thereto.

12. If and to the extent that Rules 6e–2 or 6e–3(T) under the 1940 Act is amended, or Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in the application, then the Insurance Products Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 or Rule 6e–3(T), as amended, or proposed Rule 6e–3 as adopted, to the extent such rules are applicable.

13. The Participants, at least annually, shall submit to each Board such reports, materials or data as each Board may reasonably request so that such Boards may fully carry out the obligations imposed upon them by the conditions stated in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Boards. The obligations of the Participants to provide these reports, materials and data upon reasonable request of a Board shall be a contractual obligation of all Participants under the agreements governing their participation in the Insurance Products Funds.

14. If a Qualified Plan or Plan participant shareholder should become an owner of 10% or more of the assets of an Insurance Products Fund, such Plan will execute a participation agreement with such Fund which includes the conditions set forth herein to the extent applicable. A Qualified Plan or Plan participant will execute an application containing an acknowledgement of this condition upon such Plan's initial purchase of the shares of any Insurance Products Fund.

Conclusion

For the reasons summarized above, Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–352 Filed 1–1–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23630; 812–11416]

The Sessions Group, et al.; Notice of Application

December 31, 1998.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of a registered open-end management investment company to acquire all of the assets and assume identified liabilities of certain series of another registered open-end management investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act. *Applicants:* The Sessions Group (''Sessions''), Governor Funds (''Governor''), Keystone Financial, Inc. (''Keystone''), Governor Group Advisors, Inc. (''GGA''), and

Martindale Andres & Company, Inc. (''Martindale Andres'').

FILING DATES: The application was filed on November 23, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 January 26, 1999, 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 & Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 3435 Stelzer Road, Columbus, Ohio 43219.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or George J. Zornada, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicants' Representations

1. Governor, a Delaware business trust, is registered under the Act as an open-end management investment company. Governor will initially offer shares of 12 series, four of which, Established Growth Fund, Intermediate Term Income Fund, Aggressive Growth Fund, and Emerging Growth Fund, are the ''Acquiring Series.'' [1]

2. Sessions, an Ohio business trust, is registered under the Act as an open-end management investment company. Sessions currently offers 8 series, four of which, KeyPremier Established Growth Fund, KeyPremier Intermediate Term Income Fund, KeyPremier Aggressive Growth Fund, and KeyPremier Emerging Growth Fund, are the ''Acquired Series.''

3. GGA, a Pennsylvania corporation, is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is investment adviser for the Acquiring Series. Martindale Andres, a Pennsylvania corporation, is registered under the Advisers Act and is currently investment adviser for the Acquired Series. Martindale Andres has been retained to serve as sub-adviser for the Acquiring Series. Both GGA and Martindale Andres are wholly-owned subsidiaries of Keystone, a bank holding and financial services company organized as a Pennsylvania corporation. A defined benefit plan maintained for the benefit of the employees of Keystone (the ''Keystone Plan''), owns 5% or more of the outstanding voting securities of each of the Acquired Series.[2]

4. On August 13, 1998, the board of trustees of the Acquired Series (the ''Sessions Board''), and on October 5, 1998, the board of trustees of the Acquiring Series (the ''Governor Board'', together with the Sessions Board, the ''Boards''), including a majority of the trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (the ''Independent Trustees''), approved an Agreement and Plan or Reorganization (the ''Agreement''). Under the Agreement, on the date of the exchange (the ''Exchange Date''), which is currently anticipated to be January 30, 1999, the Acquiring Series will acquire all of the assets and identified liabilities of the corresponding Acquired Series in exchange for shares of the Acquiring Series that have an aggregate net asset value (''NAV'') equal to the aggregate NAV of the Acquired Series at 4:00 p.m. EST on the day before the Exchange Date (the ''Valuation Time''), followed by the liquidation and dissolution of the corresponding Acquired Series and the pro rata distribution to the shareholders of the Acquired Series of shares of the corresponding Acquiring Series (the ''Reorganization''). Because the Acquiring Series are newly formed and will have no assets or liabilities as of the Valuation Time, the NAV per share of the applicable Acquiring Series will be set initially to equal the NAV per share of the corresponding Acquired Series as of the Valuation Time.[3]

5. Applicants state that the investment objectives, policies and restrictions of the Acquiring Series are identical or substantially identical to those of the Acquired Series. Each Acquired Series currently has a single class of shares that is subject, with certain exceptions, to a front-end sales charge. The Acquiring Series have a single class of shares that is subject to an identical sales charge and exceptions. No sales charge will be incurred by shareholders of the Acquired Series in connection with their acquisition of shares of the Acquiring Series. BISYS Fund Services, LP, the Acquired Series' principal underwriter and distributor, will be responsible for all fees and expenses related to the Reorganization.

6. The Board, including the Independent Trustees, determined that the Reorganization is in the best interests of the shareholders of the Acquired Series and the Acquiring Series, and that the interests of the shareholders of the Acquired Series and the Acquiring Series would not be diluted by the Reorganization. In assessing the Reorganization, the factors considered by the Boards included, among others (a) the business objectives and purposes of the Reorganization, (b) the investment objectives and purposes of the Reorganization, (c) the terms and conditions of the Agreement, including the allocation of expenses of the Reorganization, (d) the tax-free nature of the Reorganization, and (e) the expense ratios of the Acquiring Series and the corresponding Acquired Series.

7. The Reorganization is subject to a number of conditions precedent, including that: (a) definitive proxy solicitation materials shall have been filed with the Commission and distributed to shareholders of the Acquired Series; (b) the shareholders of the Acquired Series approve the Agreement; (c) the Acquiring and Acquired Series receive an opinion of tax counsel that the proposed Reorganization will be tax-free for each Series and its shareholders; and (d) applicants will receive from the Commission an exemption from section 17(a) of the Act for the Reorganization. The plan may be terminated and the Reorganization abandoned at any time by mutual consent of the respective Boards of the Acquired Series and the

[1] The other series are not part of the relief sought in the application.

[2] The Keystone Plan owns approximately 11% of KeyPremier Established Growth Fund, 11% of KeyPremier Intermediate Term Income Fund, 15% of KeyPremier Aggressive Growth Fund, and 68% of KeyPremier Emerging Growth Fund.

[3] The Acquiring Series and the Acquired Series correspond with one another as follows: Governor's Established Growth Fund corresponds to Sessions' Key Premier Established Growth Fund; Governor's Intermediate Term Income Fund corresponds to Sessions' KeyPremier Intermediate Term Income Fund; Governor's Aggressive Growth Fund corresponds to Sessions' KeyPremier Aggressive Growth Fund; and Governor's Emerging Growth Fund corresponds to Sessions' KeyPremier Emerging Growth Fund.

Acquiring Series. Applicants agree not to make any material changes to the Agreement without prior Commission approval.

8. Definitive proxy solicitation materials have been filed with the Commission and were mailed to shareholders of the Acquired Series on or about December 4, 1998. A special meeting of shareholders is scheduled for January 15, 1999.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person, and (d) if the other person is an investment company, any investment adviser of that company. Applicants state that the Acquiring and Acquired Series may be deemed affiliated persons and thus the Reorganization may be prohibited by section 17(a).

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganization because the Acquiring and Acquired Series may be deemed to be affiliated by reason other than having a common investment adviser, common directors, and/or common officers. Keystone might be deemed to have an indirect pecuniary interest in the performance of the assets held by the Keystone Plan. Because the Keystone Plan owns 5% or more of the outstanding voting securities of each of the Acquired Series, each Acquiring Series may be deemed an affiliated person of an affiliated person of each of the Acquired Series for a reason other than having a common investment adviser.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to consummate the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(b) of the Act. Applicants believe that the terms of the Reorganization are fair and reasonable and do not involve overreaching. Applicants state that the Reorganization will be based on the relative NAVs of the Acquiring and Acquired Series' shares. Applicants also state that the Acquiring Series were created for the express purpose of acquiring the assets and liabilities of the corresponding Acquired Series, and that their investment objectives, policies and restrictions were established to be substantially identical to those of the corresponding Acquired Series. In addition, applicants state that the Boards, including a majority of the Independent Trustees, have made the requisite determinations that the participation of the Acquiring and Acquired Series in the proposed Reorganization is in the best interests of each Series and that such participation will not dilute the interests of shareholders of the Series.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–353 Filed 1–7–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40873; File No. SR–CHX–98–29]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by The Chicago Stock Exchange, Inc. and Amendment No. 1 Thereto Relating to the Exchange's Arbitration Rules

December 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 1998, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change, as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed Amendment No. 1 on December 30, 1998 to request accelerated approval.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposal and Amendment No. 1 thereto.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 23 and 24 of Article VII to exclude, from the CHX arbitration forum, claims of employment discrimination, including sexual harassment, in violation of a statute unless the parties involved have agreed to arbitrate the claim after it has arisen.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] December 30, 1998 letter from Kirsten M. Carlson, Foley & Lardner (counsel for the Exchange), to Katherine A. England, Assistant Director, Market Regulation, SEC.