For the Nuclear Regulatory Commission.

Robert G. Schaaf,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24015; No. 812–11624]

Evergreen Variable Annuity Trust, et al.; Notice of Application

September 15, 1999.

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

ACTION: Notice of Application for an amended order pursuant to Section 6(c) of the Investment Company Act of 1940 (''Act'') granting relief from Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

Summary of Application

Applicants seek an amended order to permit shares of any current or future series of the Evergreen Variable Annuity Trust (''Trust'') and shares of any other investment company that is designed to fund insurance products or to serve as an investment vehicle for qualified pension and retirement plans and for which Evergreen Asset Management Corp. (''Evergreen Asset'') or any of its affiliates may now or in the future serve as investment adviser, administrator, manager, principal underwriter or sponsor (the Trust and such other investment company are hereinafter referred to collectively as the ''Funds'') to be sold and held by the investment adviser of any Fund (the ''Adviser'' and, collectively, the ''Advisers'') or any of the Adviser's affiliates.

Applicants

Evergreen Variable Annuity Trust and Evergreen Asset Management Corp.

Filing Date

The application was originally filed on May 21, 1999, and amended and restated on July 30, 1999.

Hearing and Notification of Hearing

An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 12, 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 of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Sullivan & Worcester, LLP, 1025 Connecticut Avenue, NW, Washington, DC 20036, Attention: Robert N. Hickey, Esq.

FOR FURTHER INFORMATION CONTACT: Michael D. Pappas, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102, (202–942–8090).

Applicant's Representations

1. The Trust was organized in June 1994 as a Massachusetts business trust and is registered as an open-end management investment company under the Act. The Trust was reorganized as a Delaware business trust on April 30, 1998. The Trust consists of separately managed series and additional series of the Trust may be created in the future.

2. Evergreen Asset serves as Adviser for certain of the Trust's series. Evergreen Asset is a wholly-owned subsidiary of First Union National Bank of North Carolina (''FUNB''). FUNB and certain of its other investment advisory affiliates serve as Advisers to certain funds or series of the Trust. FUNB is a national bank, which is a wholly-owned subsidiary (except for director's qualifying shares) of First Union Corporation, the sixth largest bank holding company in the nation (based on June 30, 1999 total assets). Evergreen Asset is registered under the Investment Advisers Act of 1940.

3. Shares of the Funds are currently offered to separate accounts of various unaffiliated insurance companies to serve as the investment medium for variable annuity contracts and variable life insurance policies issued by such companies (''Participating Insurance Companies''). Shares of the Funds also may be offered to qualified pension and retirement plans outside the separate account context (''Qualified Plans''). In addition, shares of a Fund may also be offered to an Adviser or an affiliate of the Adviser for the purposes of providing necessary capital required by Section 14(a) of the Act or for other investment purposes, in compliance with Treasury Regulation 1.817–5(f)(3).

4. On March 5, 1996, the Commission issued an order granting relief with respect to shares of the Funds to be sold to and held by (a) variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated Participating Insurance Companies and (b) Qualified Plans (Investment Company Act Release No. 21806, File No. 812–9856) (the ''Original Order''). The Applicants incorporated by reference into their application the Application for the Original Order and any amendments thereto, the Notice of Application for the Original Order and the Original Order.[1]

5. The Original Order did not address the sale of shares of the Funds to the Advisers or their affiliates in compliance with Treasury Regulation 1.817–5(f)(3) representing seed money or other investments in a Fund. Applicants propose that the Funds be permitted to offer and sell their shares to Advisers and their affiliates in compliance with Treasury Regulation 1.817–5(f)(3).

Applicants' Legal Analysis

1. Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may 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 or the rules or regulations thereunder, if and to the extent that such 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.

2. Applicants request that the Commission issue an amended order pursuant to Section 6(c) of the Act for exemptions from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) (and any comparable rule) thereunder, respectively, to the extent necessary to permit shares of the Funds to be sold to and held by the Funds' Advisers or any of its affiliates in compliance with Treasury Regulation

[1] Applicants represent that all of the facts asserted in the Application for the Original Order and any amendments thereto remain true and accurate in all material respects to the extent that such facts are relevant to any relief on which Applicants continue to rely.

1.817–5(f)(3) (representing seed money or other investments in the Funds).

3. In connection with scheduled premium variable life insurance contracts issued through a separate account registered under the Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemptions from Section 9(a) and from Sections 13(a), 15(a) and 15(b) of the Act to the extent that those Sections have been deemed by the Commission to require ''pass-through'' voting with respect to an underlying investment company's shares. The exemptions granted to a separate account by Rule 6e–2(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered managed investment companies which offer their shares *exclusively* to variable insurance separate accounts of the life insurer or any affiliated life insurance company. Therefore, the relief provided by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an investment company that also offers its shares to a variable annuity separate account or a flexible premium variable life insurance separate account of the insurer or of any affiliated insurance company (mixed funding). In addition, the relief granted by Rule 6e–2(b)(15) is not available if the shares of the underlying investment company are offered to variable life insurance separate accounts of unaffiliated insurance companies (shared funding).

4. Moreover, because the relief under Rule 6e–2(b)(15) is available only where shares of the investment company are offered *exclusively to separate accounts*, exemptive relief is necessary if the shares of the Funds are also to be sold to the Advisers or their affiliates.

5. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the Act as a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Section 9(a) and from Sections 13(a), 15(a) and 15(b) of the Act to the extent those Sections have been deemed by the Commission to require ''pass-through'' voting with respect to an underlying investment company's shares. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of the life insurer, or any affiliated life insurance company, offering either scheduled premium variable life insurance contracts or flexible premium variable life insurance contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or an affiliated life insurance company. Therefore, Rule 6e–3(T)(b)(15) permits mixed funding for a flexible premium variable life insurance separate account under certain circumstances. The rule does not, however, permit shared funding, because relief granted by Rule 6e–3(T)(b)(15) is not available with respect to a flexible premium variable life insurance separate account that owns shares of an investment company that also offers its shares to separate accounts (including flexible premium variable life insurance separate accounts) of unaffiliated insurance companies.

6. Because the relief under rule 6e–3(T)(b)(15) is available only where shares of the investment company are offered exclusively to separate accounts, exemptive relief is necessary if the shares of the Funds are also to be sold to the Advisors or their affiliates.

7. Applicants assert that the relief granted by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) is in no way affected by the purchase of the Funds' shares by Advisers or their affiliates. However, in that relief under Rules 6e–2(b)(15) and 6e–3(T)(b)(15) is available only where shares are offered exclusively to separate accounts, it is Applicants' concern that additional exemptive relief may be necessary if the shares of the Funds are also to be sold to Advisers or their affiliates. Applicants therefore request relief in order to have the Participating Insurance Companies enjoy the benefits of the relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15). Applicants assert that if the Funds were to sell shares only to Advisers or their affiliates and/or separate accounts funding variable annuity contracts, no exemptive relief would be necessary. None of the relief provided for in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) relates to Advisers or their affiliates, or to a registered investment company's ability to sell its shares to such purchasers. It is only because some of the separate accounts that may invest in the Funds may themselves be investment companies that rely upon Rules 6e–2 and 6e–3(T) and that desire to have relief continue in place, that the Applicants are applying for the requested relief.

8. In addition to permitting sales of a Fund's shares to Participating Insurance Companies and Qualified plans, Treasury Regulation 1.817–5(f)(3) permits, subject to certain conditions, a Fund to sell shares to the Adviser and its affiliates.

9. The promulgation of Rules 6e–2(b)(15) and 6e–3(T)(b)(15) under the Act preceded the issuance of the Treasury Regulation. Thus, the sale of shares of the same investment company to separate accounts, through which variable life insurance contracts are issued, and to the Adviser or its affiliates was not contemplated at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

10. Applicants believe that there is no regulatory purpose in extending the monitoring requirements of Section 9(a) of the Act because the Funds may sell their shares to an Adviser or its affiliate. Rules 6e–3 and 6e–3(T) provide relief from the eligibility restrictions of Section 9(a) only for officers, directors or employees of Participating Insurance Companies or their affiliates. The eligibility restrictions of Section 9(a) will still apply to any officers, directors or employees of the Adviser or an affiliate who participate directly in the management or administration of a Fund. Furthermore, there is no reason why the monitoring requirements should extend to all officers, directors and employees of Participating Insurance Companies and their affiliates simply because the Funds sell certain shares to an Adviser or its affiliate. This monitoring would not benefit contract owners and Qualified Plan participants and would only increase costs, thus reducing net rates of return.

11. With respect to ''pass-through'' voting requirements of Sections 13(a), 15(a) and 15(b) of the Act and the partial exemptions therefrom provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15), Applicants believe that the exercise of voting rights by the Advisers and their affiliates do not present the type of issues respecting the disregard of voting rights that are presented by variable contract separate accounts. Applicants have concluded that the inclusion of Advisers and their affiliates as eligible shareholders should not increase the risk of irreconcilable material conflicts among shareholders. Any Adviser or its affiliate that purchases Fund shares will agree to vote its shares of the fund in the same proportion as all contract owners having voting rights with respect to that Fund or in such other manner as may be required by the Commission or its staff. Therefore, the Applicants believe that allowing Advisers and their affiliates to purchase shares of the Funds should not increase the opportunity for conflicts of interest.

12. Applicants argue that the ability of the funds to sell their shares directly to Advisers and their affiliates does not

create a ''senior security'' as such term is defined in Section 18(g) of the Act, with respect to any contract owner or Qualified Plan participant as opposed to an Adviser or its affiliate. Each shareholder has rights only with respect to its respective shares of the Funds. Shareholders can only redeem such shares at their net asset value. No shareholder of any of the funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

13. Applicants assert that permitting a Fund to sell its shares to an Adviser of a Fund or to an affiliate of an Adviser, in compliance with Treasury Regulation 1.817–5(f)(3) will enhance Fund management without raising significant concerns regarding irreconcilable material conflicts. Section 14(a) of the Act generally requires that an investment company have a net worth of at least $100,000 upon making a public offering of its shares. Funds also will require more limited amounts of initial capital in connection with the creation of new series and the voting of initial shares of such series on matters requiring the approval of shareholders. In addition, the funds may wish to purchase a substantial portfolio of securities upon commencement of operations and will require capital to do so. A potential source of the requisite initial capital is an Adviser or an affiliate. These parties may have an interest in making the requisite capital expenditure, and in participating with the fund in its organization. However, Applicants submit that the provision of seed capital or the purchase of shares in connection with the management of a Fund by its Adviser or an affiliate of the Adviser may be deemed to violate the exclusivity requirements of Rule 6e–2(b)(15) and/or Rule 6e–3(T)(b)(15).

14. Applicants anticipate that such investment by an Adviser or its affiliate generally will be limited in scope and duration, and will be made only in connection with the operation of the Funds. Given the conditions of Treasury Regulation 1.817–5(f)(3) as described herein and the harmony of interest between a Fund, on the one hand, and its Adviser, on the other, Applicants assert that little incentive for overreaching exists. Furthermore, such limited investments should not implicate the concerns discussed above regarding the creation of irreconcilable material conflicts. Instead, permitting investment by Advisers or their affiliates will permit the orderly and efficient creation and operation of Funds, or series thereof, and reduce the expense and uncertainty of using outside parties at the early stages of Fund operations. The return on shares held by an Adviser or its affiliate will be calculated in the same manner as for shares held by a separate account. Any shares of a Fund purchased by the Adviser or its affiliate will be automatically redeemed if and when the Adviser's investment advisory agreement terminates, to the extent required by applicable Treasury Regulations. Neither the Adviser nor its affiliate will sell such shares of the Fund to the public.

Applicants' Conditions

Applicants have consented to the following conditions, in addition to the conditions set forth in the Original Order:

1. The Adviser or an affiliate, all Participating Insurance Companies and any Qualified Plan that executes a fund participation agreement upon becoming the owner of 10% or more of the shares of a Fund (''Participating Plan'') will be promptly informed in writing of any determination of the Board of Trustees of the Trust that an irreconcilable material conflict exists, and its implications.

2. As long as the Commission interprets the Act to require ''pass-through'' voting privileges for contract owners, whose contracts are funded through a separate account, an Adviser, or if applicable, any of its affiliates, will vote its shares of any Fund in the same proportion as all variable contract owners having voting rights with respect to the Fund; provided, however, that the Adviser or any such affiliate shall vote its shares in such other manner as may be required by the Commission staff.

3. All reports of potential or existing conflicts received by the Board of Trustees of the Trust, and all Board action with regard to determining the existence of a conflict, notifying the Adviser or any of its affiliates, Participating Insurance Companies and Participating Plans of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

Conclusion

For the reasons set forth above. Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24014; 812–648]

Stein Roe Floating Rate Income Fund, et al., Notice of Application

September 15, 1999.

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

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 18(c) and 18(i) of the Act, under sections 6(c) and 23(c)(3) of the Act for an exemption from rule 23c–3 under the Act, and pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application

Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares, and impose asset-based distribution fees and early withdrawal charges.

Applicants

Stein Roe Floating Rate Income Fund (the ''Trust'' or a ''Fund''), Stein Roe Advisor Floating Rate Advantage Fund (the ''Floating Rate Fund'' or a ''Fund'' and together with the Trust, the ''Funds''), Stein Roe Floating Rate Limited Liability Company (the ''Portfolio''), Stein Roe & Farnham Incorporated (the ''Adviser''), Liberty Funds Distributor, Inc. (the ''Distributor''), and Colonial Management Associates, Inc. (the ''Administrator'').

Filing Dates

The application was filed on June 9, 1999 and amended on August 27, 1999. 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,