

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-24146]

Notice of Applications for Deregulation under Section 8(f) of the Investment Company Act of 1940

November 19, 1999.

The following is a notice of applications for deregulation under section 8(f) of the Investment Company Act of 1940 for the month of November 1999. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549-0102 (tel. 202-942-8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 14, 1999, and should be accompanied by proof of service on the applicant, 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 Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609. For Further Information Contact: Diane L. Titus, at (202) 942-0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549-0506.

The Berwyn Fund, Inc. [File No. 811-9309]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 3, 1999, applicant transferred its assets to The Berwyn Funds (the "Acquiring Fund") based on net asset value. Expenses of \$75,000 incurred in connection with the reorganization were paid by the Acquiring Fund.

Filing Dates: The application was filed on August 27, 1999, and amended on September 10, 1999, and November 12, 1999.

Applicant's Address: 1189 Lancaster Avenue, Berwyn, Pennsylvania 19312.

Chicorp Equity Trust [File No. 811-6299]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. By August 31,

1999, each series of applicant had made a final liquidating distribution to its shareholders at net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on November 3, 1999.

Applicant's Address: 208 South LaSalle Street, Chicago, Illinois 60604.

CVO Greater China Fund, Inc. [File No. 811-8760]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 14, 1999, applicant made its final liquidating distribution to its shareholders based on net asset value. Expenses of \$7,400 incurred in connection with the liquidation were paid by CVO Greater China Partners, LP, applicant's investment adviser.

Filing Date: The application was filed on October 28, 1999.

Applicant's Address: 400 Bellevue Parkway, Wilmington, Delaware 19809.

MBL Variable Contract Account-12 [File No. 811-5849]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 15, 1999, applicant made liquidating distributions to its shareholders based on net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on October 18, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102-3111.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-30773 Filed 11-24-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-24147; 812-11860]

The First Australia Prime Income Fund, Inc., et al.; Notice of Application

November 19, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

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

Summary of Application: The First Australia Prime Income Fund, Inc.

("FAX") requests an order to permit it to make periodic distributions of net long-term capital gains in any one taxable year, so long as it maintains in effect distribution policies: (i) With respect to its common stock calling for monthly distributions of a fixed percentage of the net asset value of the common stock; and (ii) with respect to its preferred stock calling for periodic dividends of a specified percentage of the liquidation preference of the preferred stock. In addition, The First Commonwealth Fund, Inc. ("FCO") seeks to amend an existing order to extend the relief granted with respect to its common stock to its preferred stock.¹

Applicants: FAX and FCO.

Filing Date: The application was filed on November 18, 1999.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 13, 1999, and should be accompanied by proof of service on the applicant, 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, Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. FAX, Gateway Center 3, 100 Mulberry Street, Newark, New Jersey 07102. FCO, 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

FOR FURTHER INFORMATION CONTACT: Paula L. Kashtan, Senior Counsel, at (202) 942-0615, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

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, NW, Washington, DC 20549-0102 (tel. (202) 942-8090).

Applicants' Representations

1. FAX is incorporated in Maryland and registered under the Act as a closed-end, non-diversified management

¹ The First Commonwealth Fund, Inc., Investment Company Act Release Nos. 23936 (Aug. 9, 1999) (notice) and 23993 (Sept. 3, 1999) (order).

investment company. FAX's investment objective is to provide current income through investment primarily in Australian debt securities. Up to 35% of its total assets may be invested in certain Asian debt securities. FAX's common shares are listed on the American Stock Exchange and have traded at various times at either a premium or a discount to net asset value. FAX's Auction Market Preferred Shares are traded in weekly or monthly auctions, depending on the series, conducted by The Chase Manhattan Bank ("Chase"), FAX's auction agent. EquitiLink International management Limited ("EquitiLink"), FAX's investment manager, is registered as an investment adviser under the Investment Advisers Act of 1940.

2. FCO is incorporated in Maryland and registered under the Act as a closed-end, non-diversified management investment company. FCO's primary investment objective is to provide high current income, primarily through investments in fixed-income securities denominated in the currency of Australia, Canada, New Zealand, and the United Kingdom. Up to 35% of its total assets may be invested in certain global debt securities. FCO's Auction Market Preferred Shares are traded in weekly auctions conducted by Chase. EquitiLink is FCO's investment manager.

3. On June 10, 1999, FAX's board of directors ("FAX Board"), including a majority of the directors who are not "interested persons" as defined in section 2(a)(19) of the Act, adopted a distribution plan with respect to its common stock ("Monthly Distribution Plan") that calls for regular monthly distributions at a monthly cash distribution rate ("Monthly Cash Distribution Rate") set in March of each year by the Board. Among other things, the FAX Board considered empirical evidence that, in some cases, market discounts to net asset value have narrowed upon adoption of similar distribution policies by other closed-end funds. The FAX Board has set the annualized Monthly Cash Distribution Rate for the period March 1999, through February 2000, at 6 cents per share per month, subject to market conditions. If, for any taxable year, the total distributions required by its Monthly Distribution plan exceed FAX's annual net investment income and net realized capital gains, the excess will generally be treated as a return of capital (up to the amount of the shareholder's adjusted tax basis in his shares).

4. FAX requests relief to permit it, so long as it maintains in effect the Monthly Distribution Plan, to make up

to twelve distributions of long-term capital gains in any one taxable year. FAX and FCO also request relief to permit them, so long as their outstanding Auction Market Preferred Shares and any other preferred stock to be issued by FAX or FCO in the future (collectively "AMPS") required periodic dividend payment ("specified periodic payments") in amounts equal to a specified percentage of the liquidation preference of their respective AMPS, such percentage to be determined at periodic auctions, to make up to fifty-two periodic distributions of long-term capital gains in any one taxable year. If, for any taxable year, the total dividends required by either applicant's specified periodic payments exceeds either applicant's net investment income and net capital gains, the excess will be treated as a return of capital.

Applicant's Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b-1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(c) of the Internal Revenue Code of 1986, as amended (the "Code"). Rule 19b-1(a) also permits a supplemental distribution to be made pursuant to Section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b-1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under Section 4982 of the Code. In addition, applicants state that Revenue Ruling 89-81 takes the position that if a regulated investment company has two classes of shares, it may not designate distributions made to either class in any years as consisting of more than such class's proportionate share of particular types of income, such as capital gains.

2. The applicants assert that rule 19b-1, by limiting the number of net long-term capital gains distributions and dividends that the applicants may make with respect to any one year, would prohibit the applicants from including available net long-term capital gains in certain of their fixed monthly distributions and periodic dividends. As a result, the applicants state that they could be required to fund these monthly distributions and periodic dividends with returns of capital (to the extent that net investment income and net realized short-term capital gains are insufficient

to cover the distributions and dividends). FAX asserts that, with respect to its common shares, in order to distribute all the long-term capital gains within the limits in rule 19b-1, it may be required to make total distributions in excess of the annual amount called for by the Monthly Distribution Plan or retain and pay taxes on the excess amount. The applicants also note that the application of rule 19b-1 to pay-out policies may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. the applicants submit that the concerns underlying section 19(b) and rule 19b-1 are not present in their situation. One of the concerns leading to the adoption of section 19(b) and rule 19b-1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. With respect to its common stock, FAX represents that the Monthly Distribution Plan has been described in its periodic communications to its shareholders. In accordance with rule 19a-1 under the Act, a separate statement showing the sources of the distribution will accompany each distribution (or the confirmation of the reinvestment thereof under FAX's dividend reinvestment plan). With respect to the AMPS, the applicants state that there is little chance for investor confusion since all an investor expects to receive is the specified distribution for any specified dividend period, and no more, and that there is little or no chance for shareholder confusion regarding the yield or investment return generated by the dividends. In accordance with rule 19a-1, a separate statement showing the sources of the distribution will accompany each AMPS periodic dividend, with a statement provided near the end of the last dividend period in a fiscal year indicating the sources of each distribution made during the fiscal year (i.e., net income, net capital gains and/or return of capital). In addition, for both the common stock and the AMPS, a statement showing the amount and sources of distributions received during the year will be included on each applicant's IRS Form 1099-DIV report sent to each shareholder who received distributions during the year (including shareholders who have sold shares during the year). This information on an aggregate basis will also be included in each applicant's annual report to shareholders.

4. another concern underlying section 19(b) and rule 19b-1 is that frequent capital gains distributions could

improperly influence distribution practices including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming dividend ("selling the dividend"), when the dividend results in an immediate corresponding reduction in net asset value and is, in effect, a return of the investor's capital. FAX submits that this concern does not arise with regard to closed-end management investment companies, such as the applicant, that do not continuously distribute shares of their common stock. The applicants also believe that this concern does not apply to the preferred stock, which entitles a holder to a specified periodic dividend and no more, and, like a debt security, is initially sold at a price based on its liquidation preference plus an amount equal to an accumulated dividends. Finally, the applicants note that the condition to the requested relief should further assure that the concern about selling the dividend will not arise in connection with a rights offering by either of the applicants.

5. Applicants state that if any rights offerings by either of them will be timed so that shares issuable upon exercise of the rights will be issued only in the 15-day period immediately following the record date for the declaration of a dividend. Thus, the abuse of selling the dividend could not occur as a matter of timing. The applicants further state that any rights offering will comply with all relevant Commission and staff guidelines. In determining compliance with these guidelines, each applicant's board of directors will consider, among other things, the brokerage commissions that would be paid in connection with the offering. Any such offering by either applicant of transferable rights will also comply with any applicable NASD rules regarding the fairness of compensation.

6. The applicants state that increased administrative costs also are a concern underlying section 19(b) and rule 19b-1. The applicants assert that this concern is not present because the applicants will continue to make regular periodic distributions regardless of whether long-term capital gains are included in any particular distribution.

7. Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act 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. For the reasons stated above, the applicants believe that the requested relief satisfies this standard.

Condition

Each of FAX and FCO agrees that the order granting the requested relief with respect to its common stock will terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by such applicant of its common shares other than:

(i) a rights offering with respect to holders of such applicant's common stock, in which (a) shares are issued only within the 15-day period immediately following the record date of a monthly dividend, (b) the prospectus for such rights offering makes it clear that common shareholders exercising rights will not be entitled to receive such dividend, and (c) the applicant has not engaged in more than one rights offering during any given calendar year; or

(ii) an offering in connection with a merger, consolidation, acquisition, spin-off or reorganization of such applicant, unless the applicant has received from the staff of the Commission written assurance that the order will remain in effect.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-30772 Filed 11-24-99 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24145; 812-11466]

SunAmerica Asset Management Corp., et al.; Notice of Application

November 19, 1999.

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

ACTION: Notice of application for an order under section 6(c) and 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 open-end management investment companies to settle claims that may arise under a directors' and officers'/errors and omission insurance policy provided by an affiliated insurance company.

Applicants: SunAmerica Asset Management Corp. ("Adviser"); Anchor Pathway Fund, Anchor Series Trust, Season Series trust, Style Select Series, Inc., SunAmerica Equity Funds, SunAmerica Income Funds,

SunAmerica Money Market Funds, Inc., SunAmerica Series Trust, and SunAmerica Strategic Investment Series, Inc. (each a "Fund," and collectively, the "Funds").

Filing Date: The application was filed on January 13, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the applicant 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 December 14, 1999, and should be accompanied by proof and 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, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, 733 Third Avenue, New York, New York 10017-3204.

FOR FURTHER INFORMATION CONTACT: Michael W. Mundt, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

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, NW, Washington, DC 20549-0102, (202) 942-8090.

Applicant's Representations

1. Each fund is registered under the Act as an open-end management investment company. The Adviser is registered as an investment adviser under the Investment Adviser Act of 1940 ("Advisers Act") and advises each of the Funds other than Anchor Pathway Fund. Anchor Pathway Fund is advised by Capital Research and Management Company, an investment adviser registered under the Advisers Act. All of the outstanding shares of Anchor Pathway Fund are held by a separate account of Anchor National Life Insurance Company, an indirect wholly owned subsidiary of SunAmerica Inc. ("SunAmerica"). The