

Adviser is also an indirect wholly owned subsidiary of SunAmerica.

2. The Funds the Adviser, and certain other SunAmerica entities are joint insured under a directors' and officer's/ errors and omissions insurance policy provided by National Union fire Insurance Company ("National Union"). The Funds first obtained this type of insurance from National Union in 1995. The currently policy ("Existing Policy") was issued in 1996 and expires on September 1, 2000. Applicants state that after the expiration of the Existing Policy, applicants will not obtain insurance coverage from National Union.

3. National Union is an indirect, wholly owned subsidiary of American International Group, Inc. ("AIG"). On January 1, 1999, AIG acquired SunAmerica. As a result of the merger, the Adviser has become an indirect wholly owned subsidiary of AIG, and applicants state that National Union has become an affiliated person of the Adviser and an affiliated person of an affiliated person ("second-tier affiliate") of the Funds. In light of these new affiliations, applicants request relief so that a Fund may settle insurance claims with National Union under the Existing Policy.

Applicant's Legal Analysis

1. Section 17(a) generally prohibits sales or purchases of securities or property between a registered investment company and any affiliated person or second-tier affiliate of the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person directly or indirectly controlling, controlled by, or under common control with the other person, and (b) if the other person is an investment company, any investment adviser of that company.

2. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act authorizes the Commission to exempt persons or transactions from the provisions of the Act to the extent that such exemptions are 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 request an order under section 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act to permit a Fund and National Union to settle claims arising under the Existing Policy. Applicants state that section 17(a) prohibits the settlement of claims under an insurance policy where the insurer is an affiliated person or second-tier affiliate of the insured investment company because the settlement of a claim under an insurance policy entails the release of a property right (*i.e.*, of a right to sue under the policy with respect to the claim). Applicants state that the Adviser is an affiliated person of the Funds by virtue of being investment adviser to the Funds. Because National Union is under common control with the Adviser, applicants state that National Union may be deemed a second-tier affiliate of the Funds.

4. Applicants submit that the interests of the Funds would be best served by permitting extra-judicial settlement of claims because Funds will be able to resolve claims promptly without incurring additional costs of litigation. Applicants note that any settlement would be subject to the approval of a majority of a Fund's board of directors ("Board"), including a majority of the directors who are not "interested persons" of the Fund, the Adviser, or AIG within the meaning of section 2(a)(19) of the Act (Independent Board Members"). In addition, applicants state that in negotiating the amount of any extra-judicial settlement under the Existing Policy on behalf of a Fund, the Adviser has an interest in maximizing the Fund's recovery because its advisory fees are based on Fund assets. Applicants state that even though the Adviser and National Union are both subsidiaries of AIG, each is a separately operated entity with different directors and officers, and each entity is in a separate profit center within the AIG corporate structure.

Condition

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The officers of each Fund will report all losses potentially covered under the Existing Policy to the Fund's Board. The Board, including the Independent Board Members, will evaluate the loss, and a majority of the Board, including a majority of the Independent Board Members, will determine whether to submit a claim to National Union and the amount of any claim. If National Union makes a

settlement offer for less than the amount submitted, the adequacy of the settlement offer will be evaluated by the Board, including the Independent Board Members. The settlement may be accepted if a majority of the Board, including a majority of the Independent Board Members (upon the advice of independent counsel), determines that the settlement offer meets the standards specified in section 17(b) of the Act and is in the best interest of the Fund and its shareholders.

2. Each Board will record and preserve a description of all transactions with National Union, its findings, the information or materials upon which its findings are based and the basis for the findings. All such records will be maintained for a period of not less than six years, the first two years in an easily accessible place, and will be available for inspection by the staff of the Commission.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-30708 Filed 11-24-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24144; 812-11854]

OLDE Asset Management, Inc.; Notice of Application

November 18, 1999.

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

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for and exemption from section 15(a) of the Act.

Summary of Application: The requested order would permit the implementation, without prior shareholder approval, of new investment advisory agreements ("New Agreements") for a period of not more than 150 days beginning on the later of the date on which the acquisition by H&R Block, Inc. ("H&R Block") of OLDE Asset Management, Inc. ("OLDE Management") is consummated or the date on which the requested order is issued and continuing through the date the New Agreements are approved or disapproved by the shareholders (but in no event later than April 15, 2000) ("Interim Period"). The order would also permit payment of all fees earned under the New Agreements during the

Interim Period following shareholder approval.

Filing Date: The application was filed on November 12, 1999.

Hearing or 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 to the SEC's Secretary and serving 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 10, 1999, and should be accompanied by proof of service on 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicant, 751 Griswold Street, Detroit, Michigan 48226.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942-0634, or Nadya B. Roytblat, Assistant Director, 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 SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549-0102 (tel. No. 202-942-8090).

Applicant's Representations

1. OLDE Management is an investment adviser registered under the Investment Advisers Act of 1940 ("Advisers Act") and is a wholly-owned subsidiary of OLDE Financial Corporation ("OLDE Financial"), a holding company. OLDE Management serves as investment adviser to OLDE Custodian Fund ("Trust"). The Trust is an open-end management investment company registered under the Act and consists of three series (each a "Fund," and collectively, the "Funds"). OLDE Management manages the assets of the Funds pursuant to investment advisory contracts between OLDE Management and the Trust ("Existing Agreements").

2. On August 31, 1999, H&R Block and OLDE Financial entered a stock purchase agreement pursuant to which H&R Block will acquire OLDE Financial (the "Transaction"). The Transaction is expected to be consummated on or about November 30, 1999 (the "Closing Date"). OLDE Management states that

the Transaction will result in an assignment, and thus automatic termination, of the Existing Agreements.

3. OLDE Management requests an exemption to permit (i) the implementation during the Interim Period, prior to obtaining shareholding approval, of the New Agreements between the Trust and OLDE Management, and (ii) OLDE Management to receive from each Fund, upon approval of the respective Fund's shareholders, any and all fees payable under the New Agreements during the Interim Period. The requested exemption would cover the Interim Period of not more than 150 days beginning on the later of the Closing Date or the date the requested order is issued¹ and continuing through the date the New Agreements are approved or disapproved by the shareholders of the Funds (but in no event later than April 15, 2000). The New Agreements will contain terms and conditions identical to those of the Existing Agreements, except for the effective and termination dates.

4. On October 13, 1999, the Trust's Board of Trustees ("Board") met to consider and evaluate the New Agreements and to determine whether the terms of the New Agreements are in the best interests of the Funds and their shareholders. The Board, including a majority of the directors who are not "interested person" within the meaning of section 2(a)(19) of the Act ("Independent Trustees"), voted to approve the New Agreements and to recommend that each Fund's shareholders approve the respective New Agreement. Proxy materials for the shareholder meetings are expected to be mailed on or about December 6, 1999, and the shareholder meeting is scheduled to be held on or about January 18, 2000.

5. OLDE Management proposes to enter into an escrow arrangement with an unaffiliated financial institution ("Escrow Agent"). The fees earned by OLDE Management during the Interim Period under the New Agreements would be paid into an interest-bearing escrow account maintained by the

¹ OLDE Management states that if the Closing Date precedes the issuance of the requested order, it will continue to serve as investment adviser after the Closing Date (and prior to the issuance of the order) in a manner consistent with its fiduciary duty to continue to provide investment advisory services to the Funds even though shareholder approval of the New Agreements from the respective Fund has not yet been secured. OLDE Management also states that it will be entitled to receive from the Funds, with respect to the period from the Closing Date until the issuance of the order, no more than the actual out-of-pocket costs to OLDE Management for providing investment advisory services to the Funds.

Escrow Agent. The amounts in the escrow account (including any interest earned) will be paid (i) to OLDE Management only if shareholders of the respective Fund approve the New Agreement, or (ii) to the respective Fund if the Interim Period has ended and shareholders have not approved the applicable New Agreement. The Escrow Agent will release the moneys as provided only upon a receipt of a certificate from the officers of the applicable Fund that action is appropriate based on shareholder votes. Before any such certificate is sent, the Independent Trustees will be notified.

Applicant's Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires that the written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. OLDE Management states that the Transaction will result in an assignment of the Existing Agreements and their automatic termination.

2. Rule 15a-4 under the Act provides, in pertinent part, that if an investment advisory contract with an investment company is terminated, the adviser may continue to serve for up to 120 days under a written contract that has not been approved by the investment company's shareholders, provided that: (i) the new contract is approved by the company's board of directors (including a majority of the non-interested directors); (ii) the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most recently approved by company's shareholders; and (iii) neither the adviser nor any controlling person of the adviser "directly or indirectly receives money or other benefit" in connection with the assignment. OLDE Management states that it may not rely on rule 15a-4 because of the benefits arising to OLDE Financial in connection with the Transaction.

3. Section 6(c) provides that the SEC may exempt any person, security, or transaction 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 policies and provisions of the Act. OLDE Management states that the requested relief satisfies this standard.

4. OLDE Management asserts that the Transaction arose out of business considerations unrelated to the Trust and OLDE Management. OLDE Management states that there is insufficient time to obtain shareholder approval of the New Agreements prior to the Closing Date.

5. OLDE Management represents that under the New Agreements, during the Interim Period, the scope and quality of services provided to the Funds will be at least equivalent to the scope and quality of the services it previously provided under the Existing Agreements. OLDE Management states that if any material change in its personnel occurs during the Interim Period, OLDE Management will apprise and consult with the Board to ensure that the Board, including a majority of the Independent Trustees, are satisfied that the scope and quality of the advisory services provided to the Funds will not be diminished. OLDE Management also states that the compensation payable to it under the New Agreements will be no greater than the compensation that would have been paid to OLDE Management under the Existing Agreements.

Applicant's Conditions

OLDE Management agrees as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreements will have the same terms and conditions as the Existing Agreements except for the dates of execution and termination.

2. Fees earned by OLDE Management in respect of the New Agreements during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such fees) will be paid to (i) OLDE Management in accordance with the New Agreements, after the requisite shareholder approvals are obtained, or (ii) the respective Fund, in absence of such shareholder approval.

3. The Trust will convene a meeting of shareholders of each Fund to vote on approval of the respective New Agreements during the Interim Period (but in no event later than April 15, 2000).

4. OLDE Management or an affiliate, not the Funds, will bear the costs of preparing and filing the application and

the costs relating to the solicitation of shareholder approval of the Funds necessitated by the Transaction.

5. OLDE Management will take all appropriate steps so that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the Trust's Board, including a majority of the Independent Trustees, to the scope and quality of services previously provided under the Existing Agreements. If personnel providing material services during the Interim Period change materially, OLDE Management will apprise and consult with the Board to assure that the trustees, including a majority of the Independent Trustees, of the Trust are satisfied that the services provided will not be diminished in scope or quality.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

SUNSHINE ACT MEETING

AGENCY MEETING: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 29, 1999.

A closed meeting will be held on Wednesday, December 1, 1999, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, December 1, 1999, will be:

Institution and settlement of injunctive actions

Institution and settlement of administrative proceedings of an enforcement nature

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: November 23, 1999.

Jonathan G. Katz,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New and Revised Tasks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new and revised task assignments for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of new tasks assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC) and of revisions to a number of existing tasks. This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Dorenda Baker, Transport Airplane Directorate, Aircraft Certification Service (ANM-110), 1601 Lind Avenue, SW., Renton, WA 98055; phone (425) 227-2109; fax (425) 227-1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is transport airplane and engine issues. These issues involve the airworthiness standards for transport category