exceed 5%, 7.5% or 10%, respectively, of its net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions and 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Credit Facility Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds. The Credit Facility Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The Credit Facility Team will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts to the Funds.

13. State Street will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Trustees concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit under the facility.

14. The Trustees of each Fund, including a majority of the Independent Trustees: (a) Will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, State Street will promptly refer the loan for arbitration to an independent arbitrator selected by the Trustees of any Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[4] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Trustees setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on overnight repurchase agreements and bank borrowings, the yield of any Central Fund in which the lending Fund could otherwise invest, and such other information presented to the Fund's Trustees in connection with the review required by conditions 13 and 14.

17. State Street will prepare and submit to the Trustees for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are created fairly. After commencement of operations of the credit facility, State Street will report on the operations of the credit facility at the Trustees' quarterly meetings.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund shall prepare an annual report that evaluates State Street's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) that the Interfund Loan Rate will be higher than the Repo Rate, and, if applicable, the yield of the Central Funds, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Trustees; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its statement of additional information all material facts about its intended participation.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31030 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

[4] If the dispute involves Funds with separate Boards, the Trustees of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24158; 812–11684]

Fortis Series Fund, Inc. and Fortis Advisers, Inc.

November 23, 1999.

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

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants, Fortis Series Fund, Inc. (the ''Company'') and Fortis Advisers, Inc. (the ''Adviser''), request an order to permit them to enter into and materially amend sub-advisory agreements without shareholder approval and to grant relief from certain disclosure requirements.

FILING DATES: The application was filed on July 2, 1999 and amended on October 29, 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 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 20, 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 issue 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, N.W., Washington, D.C. 20549–0609; Applicants, c/o Kathleen L. Prudhomme, Esq., Dorsey & Whitney LLP, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: George J. Zornada, Branch Chief, at 202–942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMAITON: 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. 20549–0102 (telephone (202) 942–8090).

Applicant's Representations

1. The Company, a Minnesota corporation, is registered under the Act as an open-end management investment company. The Company is currently comprised of eighteen series (each a ''Fund'' and collectively the ''Funds''), each of which has its own investment objective, policies and restrictions.[1] Shares of the Funds currently are available exclusively as funding vehicles for variable annuity and variable life contracts of Fortis Benefits Insurance Company and First Fortis Life Insurance Company, entities under common control with the Adviser. The Adviser, registered under the Investment Advisers Act of 1940 (''Adviser Act'') serves as the investment adviser to the Funds pursuant to investment advisory agreements (''Advisory Agreements'').

2. Under the Advisory Agreements, the primary responsibilities of the Adviser, subject to the supervision of the board of directors of the Company (the ''Board''), are to provide the Funds with business and investment management services. Under certain Advisory Agreements, the Adviser, subject to the oversight of the Board, may delegate portfolio management to one or more sub-adviser (each a ''sub-Adviser'' and collectively the ''sub-Advisers''). Currently, each sub-advised Fund has only one Sub-Adviser. Each Sub-Adviser recommended by the Adviser is selected and approved by the Board, including a majority of the directors who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) (''Independent Directors''). Each Sub-Adviser is, and any future Sub-Adviser will be, registered as an investment adviser under the Advisers act and will perform services under a sub-advisory agreement ('sub-Advisory Agreement'') between the Adviser and the sub-Adviser. Each Sub-Adviser's fees are paid by the Adviser out of the management fees received by the Adviser from the respective Fund.

3. The Adviser recommends Sub-Advisers based on a quantitative and qualitative evaluation of the Sub-Adviser's skills managing assets for specific asset classes, investment styles, and strategies. The Adviser reviews, monitors and reports to the Board regarding the performance and investment procedures of the Sub-Advisers. The Adviser also is responsible for recommending whether to terminate a Sub-Adviser under appropriate circumstances.

4. Applicants request reflief to permit the Adviser to enter into and materially amend Sub-Advisory Agreements without seeking shareholder approval.[2] The requested relief will not extend to a Sub-Adviser that is an ''affilaiated person,'' as defined in section 2(a)(3) of the Act, of the Company or the Adviser, other than by reason of serving as a Sub-Adviser to one or more of the Funds (''Affiliated Sub-Adviser''). Currently, that are no Affiliated Sub-Adviser.

5. Applicants also request an exemption from the various disclosure provisions described below that may require each Fund to disclose fees paid by the adviser to the Sub-Advisers. The Company will disclose for each Fund (both as a dollar amount and as a percentage of the Fund's net assets): (a) aggregate fees paid to the Adviser and Affiliated Sub-Advisers, and (b) aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers (''Aggregate Fee Disclosure''). The Aggregate Fee Disclosure also will include separate disclosure of any advisory fees paid to any Affiliated Sub-Adviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (the ''Exchange Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Sub-Advisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require that investment companies include in their financial statements

[1] Applicants also request relief with respect to all future Funds and to all subsequently registered open-end management investment companies including all series thereof that in the future are advised by the Adviser (or an entity controlling, controlled by, or under common control with the Adviser), provided that such companies or series (a) operate in substantially the same manner as the Company and (b) comply with the terms and conditions of the requested order (''Future Funds''). Applicants state that the Company is the only existing registered open-end management investment company that currently intends to rely on the requested order.

[2] The term ''shareholders'' includes variable contract owners, as applicable.

information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such 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. Applicants believe that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that shareholders are relying on the Advisor to select and monitor the activities of Sub-Advisers best suited for the respective Funds. Applicants assert that, from the perspective of the shareholders, the role of Sub-Advisers with respect to a Fund is substantially equivalent to the role of portfolio managers employed by an investment adviser in a traditional investment advisory arrangement. Applicants contend that requiring shareholder approval of Sub-Advisory Agreements may impose unnecessary costs and delays on the Funds, and may preclude the Adviser from acting promptly in a manner in the best interests of a Fund. Applicants note that the Advisory Agreements will remain fully subject to the requirements of section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that some Sub-Advisers use a ''posted'' rate schedule to set their fees. Applicants state that the Adviser may not be able to negotiate below ''posted'' fee rates with Sub-Advisers if each Sub-Adviser's fees are required to be disclosed. Applicants submit that the nondisclosure of the individual Sub-Advisers' fees is in the best interest of the Funds and their shareholders, where the disclosure of such fees would increase costs to shareholders without an offsetting benefit to the Funds and their shareholders.

Applicants' Conditions

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

1. Before an existing fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the outstanding securities (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account), as defined in the Act, or, in the case of a Future Fund whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition (2) below, by the sole initial shareholder(s) before offering shares of that Future Fund to the public (or the variable contract owners through a separate account).

2. Any Fund relying on the requested relief will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, any such Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Sub-Advisers and recommend their hiring, termination, and replacement.

3. Within ninety (90) days of the hiring of any new Sub-Adviser, shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the unitholders of the sub-account) will be furnished all information about the new Sub-Adviser that would be included in a proxy statement, except as modified by the order to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Sub-Adviser. The Adviser will meet this condition by providing these shareholders with an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Adviser will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without that Sub-Advisory Agreement, including the compensation to be paid thereunder, being approved by the Fund's shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account).

5. At all times, a majority of the Board will be Independent Directors, and the nomination of new or additional Independent Directors will be at the discretion of the then-existing Independent Directors.

6. When a Sub-Adviser change is proposed for a Fund with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Board's minutes, that the change is in the best interests of the Fund and its shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Fund and the unitholders of any sub-account) and does not involve a conflict of interest from which the Adviser or the Affiliated Sub-Adviser derives an inappropriate advantage.

7. The Adviser will provide general management services to the Company and the Funds, including overall supervisory responsibility for the general management and investment of each Fund's securities portfolio and, subject to review and approval by the Board, will: (a) set each Fund's overall investment strategies; (b) evaluate, select, and recommend sub-advisers to manage all or a part of Fund's assets; (c) allocate and, when appropriate, reallocate a Fund's assets among multiple Sub-Advisers; (d) monitor and evaluate the performance of Sub-Advisers; and (e) implement procedures reasonably designed to ensure that the Sub-Advisers comply with the relevant Fund's investment objective, policies, and restrictions.

8. No director or officer of the Company or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in any Sub-Adviser except for: (a) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Sub-Adviser or an entity that controls, is controlled by or is under common control with a Sub-Adviser.

9. The Company will disclose in its registration statement the Aggregate Fee Disclosure.

10. Independent counsel knowledgeable about the Act and the duties of Independent Directors will be engaged to represent the Independent Directors of the Company. The selection of such counsel will be within the discretion of the then-existing Independent Directors.

11. The Adviser will provide the Board, no less than quarterly, with information about the Adviser's profitability on a per-Fund basis. This information will reflect the impact on profitability of the hiring or termination of any Sub-Adviser during the applicable quarter.

12. Whenever a sub-adviser is hired or terminated, the Adviser will provide the Board with information showing the

expected impact on the Adviser's profitability.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31031 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24157; 812–11796]

The Alger Fund, et al.; Notice of Application

November 23, 1999.

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

ACTION: Notice of an application under sections 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 redemptions in-kind of shares of certain registered investment companies by certain shareholders who are affiliated persons of the investment companies.

APPLICANTS: The Alger Fund, The Alger American Fund, The Alger Retirement Fund, Spectra Alger Management, Inc. (together, the ''Funds''), and Fred Alger Management, Inc. (the ''Adviser'').

FILING DATE: The application was filed on October 5, 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, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 20, 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, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609; Applicants: c/o Gregory S. Duch, Fred Alger Management, Inc., One World Trade Center, Suite 9333, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or 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 (telephone (202) 942–8090).

Applicants' Representations

1. Each of the Funds is registered under the Act as an open-end management investment company and is organized as a Massachusetts business trust. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to each Fund.

2. The prospectus of each of the Funds provides that, if the board of trustees (''Board'') of the Fund determines that cash payments would be detrimental to the interests of remaining shareholders, any request for redemption of the Fund's shares may be honored by making payment in whole or in part in securities. The payment would be made on a pro rata basis, monitored by the Adviser, with the securities valued in the same manner as they would be for purposes of computing the Fund's net asset value. Each of the Funds also has elected to be governed by rule 18f–1 under the Act. This redemption procedure presently applies to all shareholders other than shareholders who are ''affiliated persons'' of the Funds within the meaning of section 2(a)(3) of the Act (''Non-Covered Shareholders'').

3. Applicants request relief to permit the Funds to satisfy redemption requests made by shareholders who are ''affiliated persons'' of a Fund solely within the meaning of section 2(a)(3)(A) of the Act (''Covered Shareholders'') because they own 5% or more of the Fund's outstanding shares by distributing portfolio securities in-kind.[1]

[1] Applicants request that the relief extend to any registered open-end management investment company created in the future and each series thereof, as well as each series of the Funds created in the future, for which the Adviser or a person controlling, controlled by or under common control with the Adviser acts as investment adviser (''Future Funds''). Any Future Fund that relies on the order requested will do so only in accordance with the terms and conditions contained in the application.

Applicants' Legal Analysis

1. Section 17(a)(2) of the Act makes it unlawful for an affiliated person of a registered investment company or an affiliated person of such a person, acting as principal, to knowingly ''purchase'' from such registered investment company any security or other property (except securities of which the seller is the issuer). Under section 29(a)(3)(A) of the Act, an ''affiliated person'' includes any person owning 5% or more of the outstanding voting securities of such other person. Applicants state that to the extent that an in-kind redemption could be deemed to involve the purchase of portfolio securities by a Covered Shareholder, the proposed redemptions in-kind would be prohibited by section 17(a)(2).

2. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) provided that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides that the Commission may exempt classes of persons or transactions from the Act, where an 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.

4. Applicants request an order under sections 6(c) and 17(b) of the Act exempting them from the provisions of section 17(a) of the Act to permit Covered Shareholders to redeem their shares in-kind from the Funds. The requested order would not apply to redemptions by shareholders who are affiliated persons of the Funds within the meaning of sections 2(a)(3)(B) through (F) of the Act.

5. Applicants submit that the proposed transactions meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicants assert that the terms of the proposed in-kind redemptions are reasonable and fair. Applicants state that Covered Shareholders who wish to redeem shares will receive the same ''in-kind'' distribution of securities and cash on the same basis as Non-Covered Shareholders wishing to redeem shares. Applicants state that the securities to be distributed in-kind will be valued in the