

underwriter to the Trusts and is employed by the Trusts as a regular broker.

2. The Boards are identically organized with respect to the individual trustees. Prior to June 3, 2000, each Board was comprised of nine members, five of whom were not "interested persons," as defined in section 2(a)(19) of the Act, of GSC ("Disinterested Trustees"). Mr. Jackson Smart, a Disinterested Trustee, died on June 3, 2000, reducing each Board to eight members, four of whom are Disinterested Trustees. The Boards are seeking to identify a replacement Disinterested Trustee.

Applicants' Legal Analysis

1. Section 10(b) of the Act provides, in relevant part, that no registered investment company shall (1) employ as its regular broker any director, officer, or employee of such registered investment company, or any affiliated person of such director, officer or employee unless a majority of the board of directors of such registered investment company are not such brokers or affiliated persons of such brokers, (2) use as its principal underwriter any director, officer, or employee of such registered investment company or any person of which such director, officer or employee is an interested person unless a majority of the board of directors of such registered investment company are not such principal underwriters or interested persons of such principal underwriters, or (3) have as director, officer or employee any investment banker, or any affiliated person of any investment banker, unless a majority of the board of directors of such registered persons are persons who are not investment bankers or affiliated persons of any investment banker.

2. Section 10(e)(1) of the Act suspends the operation of Section 10(b) for a period of thirty days if action by the board of directors is required to fill a vacancy caused by the death, disqualification, or bona fide resignation of a director. Section 10(e)(3) authorizes the SEC, by order upon application, to prescribe a longer period as is not inconsistent with the protection of investors. Applicants request an order pursuant to section 10(e)(3) of the Act extending the thirty-day period provided for by section 10(e)(1) of the Act to August 31, 2000. Applicants further request that the order grant retroactive relief for the period from July 2, 2000, the expiration date of the statutory thirty-day period, to the date on which the order is issued. Applicants state that the requested relief meets the

standard in section 10(e)(3) for the reasons discussed below.

3. Applicants state that under section 10(b), in order for GSC to continue to serve as principal underwriter and regular broker for the Trusts, each Board's vacancy must be filled by a Disinterested Trustee. Applicants state further that the remaining Board members have determined that it was the prudent course to retain GSC as the principal underwriter and a regular broker and retain each of the other Board members past July 2, 2000, the date upon which the thirty-day period provided by section 10(b)(1) would expire.

4. Applicants state that it is in the best interests of the Trusts' shareholders and the Contracts' owners for the Board to take the necessary time to identify a qualified and competent Disinterested Trustee.

5. Applicants state that retroactive relief is necessary because Mr. Smart's death was unexpected, and that thirty days is not sufficient time to prepare and file with the Commission, and for the Commission to consider, issue a notice and grant an order upon, an application for exemptive relief.

Applicants' Conditions

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

1. The Trusts will ensure that 50 percent of the Boards' members will be Disinterested Trustees until the earlier of August 31, 2000, or the Boards' approval of an additional Disinterested Trustee.

2. Any action taken by the Boards during the period covered by the requested order will be approved by at least a majority of each Board's Disinterested Trustees.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 00-19907 Filed 8-4-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24588; 812-11870]

Securities Management and Research, Inc., et al.; Notice of Application

August 1, 2000.

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

ACTION: Notice of an application for an order under sections 6(c), 12(d)(1)(J),

and 17(b) of the Investment Company Act of 1940 (the "Act") for exemptions from sections 12(d)(1)(A) and (B) and 17(a) of the Act, and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

Summary of the Application: The requested order would permit certain registered management investment companies to invest uninvested cash in an affiliated money market fund in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

Applicants: Securities Management and Research, Inc. (the "Adviser"), SM&R Investments, Inc. (the "Series Fund"), and all existing and future series thereof, SM&R Growth Fund, Inc., SM&R Equity Income Fund, Inc., and SM&R Balanced Fund, Inc. (together with the Series Fund, the "Funds").

Filing Dates: The application was filed on December 2, 1999, and amended on April 14, 2000 and June 12, 2000.

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 August 28, 2000, 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 Teresa E. Axelson, Securities Management and Research, Inc., 2450 Southshore Blvd., Suite 400, League City, TX 77573.

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. The Funds, each a Maryland corporation, are registered under the Act as open-end management investment companies.¹ The Series Fund currently offers four series, including the SM&R Money Market Fund (the "Money Market Fund"). The Money Market Fund is subject to the requirements of rule 2a-7 under the Act. The Adviser, a Florida corporation and a wholly-owned subsidiary of American National Insurance Company, is registered as an investment adviser under the Investment Advisers Act of 1940.² The Adviser serves as the investment adviser for each of the Funds.

2. Applicants state that each of the Funds has, or may have, uninvested cash ("Uninvested Cash") held by its custodian. Such Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, dividend payments, or money received from investors.

3. Applicants request an order to permit each of the Funds ("Investing Funds") to invest their Uninvested Cash in the Money Market Fund, and to permit the Money Market Fund to sell shares to, and to redeem shares from, the Investing Funds. Investment of Uninvested Cash in shares of the Money Market Fund will be made, only to the extent that such investment is consistent with each Investing Fund's investment restrictions and policies as set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and diversify holdings.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides, in pertinent part, that no

¹ Applicants also request relief for all other registered management investment companies that are or become adviser or sub-advised by the Adviser and that are part of the same group of investment companies, as that term is defined in section 12(d)(1)(G) of the Act, as the Funds ("Future Funds") and together with the Funds, the "Funds"). All investment companies that currently intend to rely on the requested relief are named as applicants. Any other existing or future registered management investment company that may rely on the order in the future will do so only in accordance with the terms and conditions of the application.

² For purposes of this application, the term "Adviser" includes, in addition to Securities Management and Research, Inc., any other person controlling, controlled by or under common control with Securities Management and Research, Inc. that acts in the future as an investment adviser for the Funds.

registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act, in pertinent part, provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of section 12(d)(1) if, and to the extent that, such exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) from the limitations of sections 12(d)(1)(A) and (B) to permit the Investing Funds to invest Uninvested Cash in the Money Market Fund.

3. Applicants state that the proposed arrangement would not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because the Money Market Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over the Money Market Fund. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because of the Money Market Fund sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act, or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers' ("NASD") Conduct Rules). Applicants represent that the Money Market Fund will not acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an "affiliated person" of an investment company to include, among others, any

person directly or indirectly controlling, controlled by, or under common control with the investment company and any investment adviser to the investment company. Applicants state that, because the Funds share a common investment adviser, each Fund may be deemed to be under common control with each of the other Funds, and thus an affiliated person of each of the other Funds. As a result, section 17(a) would prohibit the sale of the shares of the Money market Fund to the Investing Funds, and the redemption of the shares by the Money Market Fund.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the act permits the Commission to exempt persons or transactions from any provision of the act if the 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.

6. Applicants submit that their request for relief to permit the purchase and redemption of shares of the Money Market Fund by the Investing Funds satisfies the standards in sections 6(c) and 17(b) of the Act. Applicants note that shares of the Money Market Fund will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. Applicants state that the Investing Funds will retain their ability to invest their Uninvested Cash directly in money market instruments as authorized by their respective investment objectives and policies if they believe they can obtain a higher rate of return, or for any other reason. Applicants also state that the Money market Fund has the right to discontinue selling shares to any of the Investing Funds if the money Market Fund's board of directors determines that such sale would adversely affect its portfolio management or operations.

7. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants state

that each Investing Fund, by purchasing shares of the Money Market Fund, the Adviser, by managing the assets of the Investing Funds investing in the Money Market Fund, and the Money Market Fund, by selling shares to the Investing Funds, could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d-1 under the Act.

8. Rule 17d-1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the investment by the Investing Funds in shares of the Money Market Fund would be indistinguishable from any other shareholder account maintained by the Money Market Fund and that the transactions will be consistent with the Act.

Applicants' Conditions

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

1. Shares of the Money Market Fund sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act or a service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules).

2. If the Adviser collects from the Money Market Fund a fee for acting as its investment adviser with respect to assets invested by the Investing Funds, before the next meeting of the board of directors of an Investing Fund that invests in the Money Market Fund ("Board") is held for the purpose of voting on an investment advisory contract under section 15 of the Act, the Adviser will provide the Board with specific information regarding the approximate cost to the Adviser for, or portion of the investment advisory fee under the existing advisory agreement attributable to, managing the assets of the Investing Fund that can be expected to be invested in the Money Market Fund. Before approving any investment advisory contract under section 15, the Board, including a majority of the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, shall consider to what extent, if any, the investment advisory fees charged to the Investing Fund by the

Adviser should be reduced to account for the investment advisory fees indirectly paid by the Investing Fund because of the investment advisory fee paid by the Money Market Fund to the Adviser. The minute books of the applicable Investing Fund will record fully the factors considered by the Board in approving the investment advisory contract, including the considerations of the Board relating to the advisory fees referred to above.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Fund only to the extent that the Investing Fund's aggregate investment in the Money Market Fund does not exceed 25 percent of the total assets of the Investing Fund. For purposes of this limitation, each Investing Fund and series thereof will be treated as a separate investment company.

4. Investment in shares of the Money Market Fund will be in accordance with each Investing Fund's respective investment restrictions and policies as set forth in its prospectus and statement of additional information.

5. Each Investing Fund, the Money Market Fund, and any future Fund that may rely on the order will be advised by the Adviser, or a person controlling, controlled by, or under common control with the Adviser.

6. The Money Market Fund will not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-19908 Filed 8-4-00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act 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 meetings during the week of August 7, 2000.

An open meeting will be held on Thursday, August 10, 2000 at 10 a.m., in room 1C30.

The subject matter of the open meeting scheduled for Thursday, August 10, 2000 will be: The Commission will consider adopting new rules to address three issues: (1) The selective disclosure by issuers of

material nonpublic information (Regulation FD); (2) whether insider trading liability requires "use" or "knowing possession" of material nonpublic information (Rule 10b5-1); and (3) when a family or other non-business relationship gives rise to liability under the misappropriation theory of insider trading (Rule 10b5-2).

FOR FURTHER INFORMATION CONTACT:

Richard A. Levine, Assistant General Counsel; or Sharon Zamore, Senior Counsel; or Jacob Lesser, Attorney, Office of the General Counsel (202-942-0890).

A closed meeting will be held on Thursday, August 10, 2000 at 11 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.

The subject matters of the closed meeting scheduled Thursday, August 10, 2000 will be: Institution and settlement of injunctive actions; and institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alternations 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: August 3, 2000.

Jonathan G. Katz,

Secretary.

[FR Doc. 00-20056 Filed 8-3-00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43092; File No. SR-Amex-00-36]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Creating an Options Principal Membership Seat Upgrade Program

July 31, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934