certificate of service. Hearing requests should state the nature of writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of the hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 600 Montgomery Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, on (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. The Fund, a Delaware trust, is a registered open-end management investment company with two separately managed series. Additional series may be added in the future. The Fund's registration statement on Form N–1A (File No. 33–84450) was filed on September 27, 1994 and is incorporated by reference into the application.

2. Montgomery, a California limited partnership, is an investment adviser registered under the Investment Advisers Act of 1940. Montgomery serves as the investment advisor and manager of the Fund.

3. Shares of each series of the Fund(s) may be offered to insurance company separate accounts that fund variable annuity or variable life insurance contracts (''Contracts''), regardless of whether such insurance companies are affiliated with each other (''Participating Insurance Companies''). Each Participating Insurance Company will have the legal obligation of satisfying all applicable requirements under state and federal law. Applicants anticipate that, in connection with their scheduled premium and flexible premium variable life insurance contracts, Participating Insurance Companies will rely on Rule 6e–2 or Rule 6e–3(T) under the 1940 Act, although some may rely on individual exemptive orders as well. The role of the Funds, so far as the federal securities laws are applicable, will be limited to that of offering their shares to separate accounts of various insurance companies, and Qualified Plans, and fulfilling any conditions that the Commission may impose upon granting the order requested in the application.

4. Shares of the Funds may also be offered to qualified pension and retirement plans outside of the separate account context (''Qualified Plans'' or ''Plan''). Qualified Plans may choose any of the Funds as the sole investment under the Plan or as one of several investments. Plan participants may or may not be given an investment choice depending on the Plan itself. Shares of any of the Funds sold to Qualified Plans would be held by the trustee(s) of said Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act (''ERISA''). Montgomery will not act as investment adviser to any of the Qualified Plans that will purchase shares of any of the Funds. There will be no pass-through voting to the participants in Qualified Plans.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust (''UIT''), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act. The relief provided by Rule 6e–2(b)(15) is available to a separate account's investment advisor, principal underwriter and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available only where the management investment company underlying the UIT offers its shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is commonly referred to as ''mixed funding.'' The use of a common management investment company as the underlying investment medium for variable annuity and variable life insurance separate accounts of unaffiliated insurance companies is commonly referred to as ''shared funding.'' ''Mixed and shared funding'' denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. Rule 6e–2(b)(15) precludes mixed as well as shared funding.

2. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled of flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company.'' Thus, Rule 6e–3(T)(b)(15) permits mixed funding but precludes shared funding.

3. According to the Applicants, the relief granted by Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15) is in no way affected by the purchase of shares of the Funds by Qualified Plans. However, because the relief under these Rules is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds are also to be sold to Qualified Plans. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a)(1) or (2). However, Rules 6e–2(b)(15)(i) and (ii) and 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the disqualification to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company.

4. Applicants argue that the exemptions contained in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) recognize that is it unnecessary to apply Section 9(a) to the thousands of individuals who may be involved in a large insurance company but would have no connection with the investment company funding the separate accounts. Applicants believe that it is unnecessary to limit the applicability of the rules merely because shares of the Funds may be sold in connection with mixed and shared funding. Applicants submit that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds and, therefore, applying the restrictions of Section 9(a) serves no regulatory purpose. Applicants state that applying such restrictions would increase the monitoring costs incurred by the Participating Insurance