obtaining shareholder approval through a proxy solicitation, and to exempt the FRIC Portfolios from the requirement to discuss the fees paid for FRIMCo to the Money Managers of the funds.[2] In 1988, the SEC issued an order to exempt the RIF Funds from the requirement to disclose the fees paid by FRIMCo to the Money Managers of the RIF Portfolios.[3] The requested order would supersede the 1981 and 1988 orders.

9. Applicants request an exemption from section 15(a) and rule 18f–2 to permit FRIMCo to enter into Portfolio Management Agreements with Money Managers, other than Money Managers that are affiliated persons (as defined in section 2(a)(3) of the Act) of the Fund for FRIMCo other than by reason of serving as a Money Manager to one or more of the Funds (an ''Affiliated Money Manager''), without such agreements being approved by the shareholders of the applicable Partfolio. In lieu of the shareholder voting requirement, applicants will provide shareholders with an information statement that includes all the information concerning a new Money Manager or Portfolio Management Agreement that would be included in a proxy statement.

10. Applicants propose to disclose (both as a dollar amount and as a percentage of a Portfolio's net assets) in the Funds' registration statements and other public documents only the aggregate amount of fees paid by FRIMCo to all the Money Managers of a Portfolio (''Aggregate Fee Disclosure''). Aggregate Fee Disclosure means: (a) the total advisory fee charged by FRIMCo to the Portfolio; (b) the aggregate fees paid by FRIMCo to all Money Managers managing assets of the Portfolio; and (c) the net advisory fee retained by FRIMCo with respect to the Portfolio after FRIMCo pays all Money Managers managing assets of that Portfolio. For any Fund that employs an Affiliated Money Manager, ''Aggregate Fee Disclosure'' also will include separate disclosure of any fees paid to such Affiliated Money Manager.

Applicants' Legal Analysis

1. Section 15(a) makes it unlawful for any person to act as an investment adviser to a register investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding securities. Rule 18f–2 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. Applicants state that primary responsibility for management of the Funds, in particular, the selection and supervision of the Money Managers, will be vested in FRIMCo, subject to oversight and approval by the Funds' directors. Applicants argue that the multi-manager, multi-style structure used by FRIMCo is clearly described in the Funds' prospectuses, and that shareholders invest in the Funds expecting FRIMCo to change Money Managers when appropriate. Applicants also assert that requiring shareholders to approve every Money Manager change would prevent FRIMCo from performing on a timely and effective basis the principal function the shareholders are paying it to perform—the selection, monitoring, and changing of Money Managers. Applicants contend that requiring shareholder approval would not only result in unnecessary administrative expense to a Portfolio, but could result in harmful delays in executing changes in Money Managers that FRIMCo and the Funds' directors may determine are necessary.

3. Section 15(a)(1) 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 which ''precisely describes all compensation to be paid thereunder.''

4. Items 2, 5(b)(iii), and 16(a)(iii) of Form N–1A require the Funds to disclose in their prospectuses the investment adviser's compensation and the method of computing the advisory fee.

5. Item 3 of Form N–14, the registration form for business combinations involving mutual funds, requires the inclusion of a ''table showing the current fees for the registrant and the company being acquired and pro forma fees, if different, for the registrant after giving effect to the transaction using the format prescribed'' in item 2 of Form N–1A.

6. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Exchange Act. Item 22 of Schedule 14A sets forth the requirements concerning the information that must be included in a proxy statement. Item 22(a)(3)(iv) requires a proxy statement for a shareholder meeting at which a new fee will be established or an existing fee increased to include a table of the current and pro forma fees using the format prescribed in item 2 of Form N–1A. Items 122(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9), taken together, require that a proxy statement for a shareholder meeting at which an advisory contract is to be voted upon shall include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' the ''terms of the contract to be acted upon,'' and, if a change in fees is proposed, the existing and proposed rate schedule for advisory fees paid to their advisers, including the Money Managers.

7. Item 48 of Form N–SAR provides that the Funds must disclose the rate schedule for advisory fees paid to their advisers, including the Money Managers.

8. Items 6–07(2) (a), (b), and (c) of Regulation S–X require that the Funds' financial statements contain information concerning fees paid to the Money Managers.

9. Applicants submit that it is consistent with the policy of the Act and the protection of investors to exempt applicants from the requirement to disclose individual Money Manager fees because applicants believe that such disclosure is likely to inhibit or eliminate FRIMCo's ability to negotiate fees below the Money Managers' ''posted'' fee schedules. Applicants argue that any advantage that FRIMCo would gain in negotiating fee arrangements with Money Managers would inure ultimately to the benefit of the shareholders of the Portfolios because it would be possible for FRIMCo to pass the benefits of a lower sub-advisory fee on to the Portfolios, although FRIMCo is not legally or contractually obligated to do so.[4] They also maintain that the ability to negotiate fee reductions is a critical element in their multi-style, multi-manager fund structure and the Funds' ability to offer investors a multi-manager investment product at a price which is competitive with single adviser funds.

10. Applicants assert that because all shareholders of the Funds will be fully advised of the fees charged by FRIMCo for its management services (which include compensating the Money Managers), each shareholder will have the information to determine whether, in its judgment, the total package of

[2] Investment Company Act Release Nos. 11944 (Sept. 21, 1981) (notice) and 11986 (Oct. 14, 1981) (order). At the time of the 1981 order, FRIC had only seven portfolios, all of whose investors paid an advisory fee directly to FRIMCo.

[3] Investment Company Act Release Nos. 16309 (Mar. 9, 1988) (notice) and 16351 (Apr. 7, 1988) (order).

[4] Fund directors would be required to take the amounts paid by FRIMCo to the Money Managers into account when assessing the profitability of the advisory agreements to FRIMCo during the course of their annual review of the Funds' management and sub-advisory arrangements under sections 15 and 36(b) of the Act.