

intended by the policy and provisions of the Act.

4. Applicants believe that the requested order meets the standards of section 6(c). With respect to the exemption requested in connection with any Other Account and/or Future Contracts, applicants believe that the requested order would promote efficiency and competitiveness in the market for variable annuities by reducing the administrative costs and delay incurred by Pacific Mutual in seeking what is essentially, redundant relief. Applicants believe that no incremental benefit or protection would inure to investors if Pacific Mutual were required to seek such further exemptive relief.

5. Applicants believe that Pacific Mutual is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the proposed mortality and expense risk charge is consistent with the protection of investors because it is a reasonable and proper insurance charge. The charge is a reasonable one to compensate Pacific Mutual for the risks that: (a) Annuitants under the Contracts will live longer individually or as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts; (b) the Contract Value will be less than the death benefit; and (c) administrative expenses will be greater than amounts derived from the administrative charges.

6. Pacific Mutual represents that the 1.25% mortality and expense risk charge under the Contracts is within the range of industry practice for comparable annuity products. This representation is based upon Pacific Mutual's analysis of publicly available information about similar industry products, taking into consideration such factors as the current charge levels, existence of charge level guarantees, any death benefit guarantees, guaranteed annuity rates, and other policy options. Pacific Mutual will maintain at its administrative offices, and make available to the SEC upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

7. Pacific Mutual also represents that the mortality and expense risk charge under any Future Contract will be within the range of industry practice for comparable annuity products at the time such Future Contract is first offered. Pacific Mutual will maintain at its administrative offices, and make available to the SEC upon request, a memorandum setting forth in detail the products analyzed in the course of, and

the methodology and results of, its comparative survey undertaken in connection with such Future Contract.

8. Applicants acknowledge that, if a profit is realized from a mortality and expense risk charge, all or a portion of such profit may be available to pay Pacific Mutual's distribution expenses. Pacific Mutual has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements for the Contract will benefit the Separate Account or Other Accounts and the Contract owners. The basis for that conclusion is set forth in a memorandum that will be maintained by Pacific Mutual at its administrative offices and will be made available to the SEC upon request. Pacific Mutual will not offer any Future Contract subject to a mortality and expense risk charge unless and until it has concluded that there is a reasonable likelihood that the distribution financing arrangements proposed for such Future Contract will benefit the Separate Account or the applicable Other Account and the owners of such Future Contract. Pacific Mutual will maintain at its administrative offices, and will make available to the SEC upon request, a memorandum setting forth the basis for that conclusion.

9. Pacific Mutual represents that the Separate Account and any other Account will invest only in those management investment companies that undertake, in the event such company should adopt a plan under rule 12b-1 under the Act to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not "interested persons" of such company, formulate and approve any such plan.

Conclusion

For the reasons set forth above, applicants believe that the requested 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.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-15502 Filed 6-23-95; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Release No. 21142; 811-6470]

Smith Barney Shearson FMA® Trust; Notice of Application

June 19, 1995.

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

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Smith Barney Shearson FMA® Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on May 24, 1995.

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 July 17, 1995, and should be accompanied by proof of service on the 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942-0584, or C. David Messman, 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 from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a business trust under the laws of the Commonwealth of Massachusetts. On November 11, 1991, applicant registered under the Act, and on November 12, 1991, applicant filed a registration statement under section 8(b) of the Act and under the Securities Act of 1993. Applicant's Registration Statement became effective on January 24, 1992.