

Fund, Inc. (the "101 Fund"), and Berger Investment Portfolio Trust (the "Trust") (collectively, the "Funds"), and Berger Associates, Inc. ("BAI").

RELEVANT ACTION SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) of the Act; and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1) of the Act; and pursuant to section 17(d) of the Act and rule 17d-1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order that would permit the applicant investment companies to enter into deferred compensation arrangements with their independent directors.

FILING DATES: The application was filed on September 13, 1995 and amended on November 30, 1995. Applicant's counsel has stated in a letter dated December 12, 1995 that an amendment, the substance of which is incorporated herein, will be filed during the notice period.

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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 8, 1996 and should be accompanied by proof of service on the 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 210 University Boulevard, Denver, Colorado 80206.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Law Clerk, at (202) 942-0571, or Robert A. Robertson, 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.

Applicants' Representations

1. Each of the Funds is a registered open-end management investment company. BAI serves as the investment adviser to each of the Funds. Applicants request that the exemption also apply to

any registered open-end investment company for which BAI, or any entity under common control with or controlled by BAI, subsequently serves as investment adviser.

2. Each Fund has a board of trustees or board of directors. Each board has ten members, eight of whom are not "interested persons" within the meaning of section 2(a)(19) of the Act ("independent directors"). Each independent director receives an annual fee plus a meeting attendance fee. No director who is an interested person of a Fund receives any remuneration from such Fund.

3. Applicants request relief so that the Funds may offer their independent directors deferred compensation plans (each, a "Plan"). Each Fund's Plan will be administered by its board or by such person or persons as the board may designate to carry out administrative functions under the Plan (the "Administrator"). Each Plan would permit independent directors of a Fund annually to elect to defer receipt of all or a portion of their fees. This election would enable the independent directors to defer payment of income taxes on such fees.

4. Under the Plans, the Administrator shall maintain a book entry account (an "Account") with respect to each deferral election by an independent director and shall credit to that Account an amount equal to all compensation deferred by the independent director under such election, as of the date such fees would have been paid to such independent director absent such deferral. The value of an Account will be equal to the value such account would have had if the amount credited to it had been invested and reinvested in certain designated securities (the "Designated Shares"). The Designated Shares for an Account will be shares of one or more of the Funds or a money market fund approved by the board of the Fund on which such independent director serves (the "Investment Funds"), as designated by the participating independent director. The money market fund currently proposed to be included as an Investment Fund is the Cash Account Trust, for which Kemper Financial Services, Inc. acts as investment adviser, and for which BAI provides sub-administration services. The Cash Account Trust is not an "affiliated person" of the Funds, as such term is defined in section 2(a)(3) of the Act. Each Account shall be credited or charged with book adjustments representing all interest, dividends, and other earnings and all gains and losses that would have been realized had such

account been invested in the Underlying Shares.

5. The amounts paid to the independent directors under the Plans are expected to be insignificant in comparison to the total net assets of the Funds. Each Plan provides that a Fund's obligation to make payments from an Account will be a general obligation of the Fund and payments made pursuant to each Plan will be made from the Fund's general assets and property. With respect to the obligations created under the Plans, the relationship of an independent director to a Fund will be that of a general unsecured creditor.

6. The Plans do not create an obligation of a Fund to any independent director of a Fund to purchase, hold, or dispose of any investments. If a Fund should choose to purchase investments in order to cover its obligations under a proposed Plan, any and all such investments will continue to be part of the general assets and property of such Fund. In this regard, a Fund may purchase its own shares or the shares of any other Investment Fund to cover its obligations.

7. Under the Plans, an independent director may specify that his or her deferred fees be distributed in whole or in part commencing on (a) a date at least five years following the deferral election, or (b) the date on which the independent director ceases to be a member of the board, but not later than such cessation date. Deferred payments will be made in a lump sum or in monthly or quarterly installments over a period not to exceed ten years, as elected by the independent director. In the event of the independent director's death, amounts payable under a Plan will be payable to his or her designated beneficiary, or, in the absence of such a beneficiary, to his or her estate. In all other events, the independent director's right to receive payments cannot be transferred, assigned, pledged, subjected to garnishment or otherwise alienated.

8. The Plans will not obligate any Fund to retain the services of an independent director, nor will they obligate any Fund to pay any (or any particular level of) director's fees to any director.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) of the Act to permit the Funds to enter into deferred fee arrangements with their independent directors; under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1) to permit the Investment Funds to sell securities issued by them to