

14. If the charges for the mortality and expense risks prove insufficient to cover mortality and administration and maintenance costs, then the excess of the actual expenses over the charges assessed will result in a loss; such loss will be borne by American Skandia. If the charges prove more than sufficient to cover the actual costs, however, the excess will result in a profit to American Skandia. American Skandia may use any profit derived from this mortality and expense risk charge for any lawful purpose, including payment or recoupment of sales and distribution expenses.

15. Should the Contract owner or group Contract participant live in a jurisdiction that levies a premium tax, American Skandia will pay the taxes when due. State premium taxes may range up to 3.5% of purchase payments, and are subject to change.

16. A charge of \$10 per transfer is assessable for each transfer after the twelfth such transfer in an annuity year. Renewals of transfers of Account Value from a Fixed Allocation at the end of its guarantee period are not subject to the transfer charge and are not counted in determining whether other transfers may be subject to the transfer charge.³ The fee is charged only if there is Account Value in at least one Sub-account immediately subsequent to such transfer.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to grant an exemption from any provision, rule, or regulation of the 1940 Act to the extent that 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 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

3. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of

the 1940 Act to the extent necessary to permit the deduction of an annual mortality and expense risk charge of .50% from the net assets of the Separate Account and the Other Accounts, in connection with the Contracts, and, with respect to Future Contracts, a maximum mortality and expense risk charge of 1.00% per annum. Applicants also seek exemptive relief to permit Future Broker-Dealers to serve as distributors of and/or principal underwriters for Contracts and Future Contracts.

4. Applicants submit that American Skandia is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the mortality and expense risk charge as set forth herein, is consistent with the protection of investors because such charge is a reasonable and proper insurance charge.

5. American Skandia represents that the .50% mortality and expense risk charge is within the range of industry practice for comparable annuity contracts. This representation is based upon an analysis of publicly available information about similar products, taking into consideration such factors as, among others, the current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. American Skandia will maintain at its principal offices, and make available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, Applicants' comparative review.

6. Similarly, prior to making any Future Contracts available through the Separate Account or Other Accounts, Applicants will represent that the mortality and expense risk charge under any such Future Contracts is within the range of industry practice for comparable contracts. In addition, Applicants will keep, and make available to the Commission, a memorandum setting forth the basis for this representation.

7. Applicants acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses. American Skandia has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Accounts and Other Accounts, Contracts owners, and group Contract participants. American Skandia represents that it will maintain, and make available to the Commission upon request, a memorandum setting forth the basis of such conclusion. In addition,

Applicants will keep, and make available to the Commission, a memorandum setting forth the basis for the same representation with respect to Future Contracts offered by the Separate Account or Other Accounts.

8. Applicants submit that their request for exemptive relief for deduction of the mortality and expense risk charge from the assets of the Separate Account, or any Other Accounts in connection with Contracts and Future Contracts underwritten and/or distributed by Marketing or Future Broker-Dealers, would promote competitiveness in the variable annuity contract market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of American Skandia's resources. Applicants further submit that Contract owners and group Contract participants would not receive any benefit or additional protection by requiring American Skandia repeatedly to seek exemptive relief and that such requests for exemptive relief would present no issue under the 1940 Act that has not already been addressed in this application. Moreover, Applicants submit that requiring American Skandia to file additional applications would impair American Skandia's ability effectively to take advantage of business opportunities as they arise.

9. The Separate Account and Other Accounts will be invested only in a management investment company that undertakes, in the event it adopts a plan for financing distribution expenses pursuant to Rule 12b-1 under the 1940 Act, to have such plan formulated and approved by its board of directors or trustees, the majority of whom are not "interested persons" of the company within the meaning of Section 2(a)(19) of the 1940 Act.

Conclusion

For the reasons submitted above, Applicants submit that the exemptive relief requested 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 1940 Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-20714 Filed 8-13-96; 8:45 am]

BILLING CODE 8010-01-M

³ A "renewal" is a transaction that occurs automatically as of the last day of the guarantee period of a Fixed Allocation, unless American Skandia receives alternative instructions.

[Investment Company Act Release No. 22122; 812-10186]

The Prudential Institutional Fund, et al.; Notice of Application

August 7, 1996.

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

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

APPLICANTS: The Prudential Institutional Fund ("PIF"), Prudential Jennison Fund, Inc. ("Jennison Fund"), Prudential Allocation Fund ("Allocation Fund"), Prudential Government Income Fund, Inc. ("Government Income Fund"), Prudential MoneyMart Assets, Inc. ("MoneyMart Fund"), Prudential World Fund, Inc. ("World Fund"), Prudential Institutional Fund Management, Inc. ("PIFM"), Prudential Mutual Fund Management, Inc. ("PMF"), The Prudential Investment Corporation ("PIC"), Jennison Associates Capital Corp. ("Jennison"), Mercator Asset Management, L.P. ("Mercator") and The Prudential Insurance Company of America ("Prudential").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act granting an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order to permit the Jennison Fund, the Balanced Portfolio of the Allocation Fund ("Balanced Portfolio"), the Government Income Fund, the MoneyMart Fund, and the International Stock Series of the World Fund ("International Series") to acquire substantially all of the assets of corresponding series of PIF in exchange for shares of the acquiring funds.

FILING DATES: The application was filed on May 30, 1996 and amended on August 5, 1996.

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 September 3, 1996, 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, N.W., Washington, D.C. 20549. PIF and PIFM, 30 Scranton Office Park, Moosic, Pennsylvania 18507; Jennison Fund, Allocation Fund, Government Income Fund, MoneyMart Fund, World Fund, and PMF, One Seaport Plaza, New York, New York 10292; PIC and Prudential, 751 Broad Street, Newark, New Jersey 07102; Jennison, 466 Lexington Avenue, New York, New York 10017; and Mercator, 2400 East Commercial Boulevard, Fort Lauderdale, Florida 33308.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney, at (202) 942-0579, or Alison E. Baur, 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. PIF is organized as a Delaware business trust and is registered under the Act as a diversified open-end management investment company. Currently, PIF consists of seven separate series: the Balanced Fund, the Income Fund, the Money Market Fund, the Growth Stock Fund, the Stock Index Fund, the International Stock Fund, and the Active Balanced Fund (the "PIF Funds"). Each PIF Fund offers for sale one class of shares, which are offered without a sales charge or distribution or service fee. Shares of the PIF Funds are offered exclusively to retirement programs and arrangements through plan sponsors, to Individual Retirement Accounts and to certain institutional investors.

2. PIFM is the investment adviser to each PIF Fund. PIFM has entered into subadvisory agreements with PIC, Jennison, and Mercator (together, the "Subadvisers") whereby each Subadviser furnishes investment advisory services to one or more PIF Funds.

3. The Jennison Fund, Government Income Fund, MoneyMart Fund, and World Fund each is organized as a Maryland corporation. The Allocation Fund is organized as a Massachusetts business trust. The Jennison Fund, Government Income Fund, MoneyMart Fund, Allocation Fund, and World Fund (the "PMF Funds") each is registered under the Act as a diversified open-end management investment company. Currently, the Allocation Fund consists of two series: the

Balanced Portfolio and the Strategy Portfolio. The World Fund consists of two series: the International Series and the Global Series.

4. The PMF Funds (other than the MoneyMart Fund) each offer four classes of shares: Class A, Class B, Class C, and Class Z. Class Z shares are offered to certain institutional investors without a sales charge or rule 12b-1 fee. The MoneyMart Fund issues two classes of shares, Class A and Class Z. Class Z shares of the MoneyMart Fund are offered without a sales charge or rule 12b-1 fee.

5. PMF is the investment adviser to the PMF Funds. PMF has entered into a subadvisory agreement with Jennison whereby Jennison furnishes investment advisory services to the Jennison Fund. PMF also has entered into a subadvisory agreement with PIC whereby PIC furnishes investment advisory services to the Allocation Fund, the Government Income Fund, the MoneyMart Fund, and the World Fund.

6. PIFM, PMF, and the Subadvisers each is registered as an investment adviser under the Investment Advisers Act of 1940. PIFM, PMF, PIC, and Jennison are direct or indirect wholly-owned subsidiaries of Prudential. Mercator is a limited partnership of which Prudential, through a wholly-owned subsidiary, maintains a limited partnership interest.

7. Prudential beneficially owns shares in several PIF Funds. As of March 31, 1996, Prudential owned 51.48% of the outstanding voting securities of the Income Fund and 47.63% of the outstanding voting securities of the Money Market Fund. Through the separate account of the Prudential Variable Contract Investment Fund, Prudential also holds 5.6% of the outstanding voting securities of the Growth Stock Fund, 23.23% of the outstanding voting securities of the Balanced Fund, and 12.05% of the outstanding voting securities of the International Stock Fund. Through its employees' savings plan, Prudential holds (on behalf of its employees) 28.93% of the outstanding voting securities of the Growth Stock Fund, 25.74% of the outstanding voting securities of the Balanced Fund, and 42.21% of the outstanding voting securities of the International Stock Fund. In addition, Prudential Securities, Inc., a wholly-owned direct subsidiary of Prudential, holds on behalf of its clients, without any direct interest, more than 5.00% of the outstanding shares of each PMF Fund and is registered as a broker-dealer under the Securities Exchange Act of 1934.

8. Prudential has formed the "Money Management Group" to combine certain pension, investment, mutual fund, and annuity businesses into a single business group. One strategic initiative of this combination is to present a single broad mutual fund family to the pension marketplace. Consistent with this change, Prudential and the trustees of PIF and the trustees/directors of each PMF Fund believe it would be in the best interest of shareholders to consolidate certain mutual funds sponsored by Prudential. As a result, each PMF Fund (the Allocation Fund only with respect to the Balanced Portfolio and the World Fund only with respect to the International Series) proposes to acquire all or substantially all of the assets of a corresponding PIF Fund in exchange for Class Z shares of that PMF Fund, which will be distributed by that PIF Fund to its shareholders (each, a "Reorganization"). The two remaining PIF Funds that are not involved in the Reorganizations (the Stock Index Fund and the Active Balanced Fund) will not merge into a PMF Fund, but will enter into new investment advisory and distribution contracts with PMF and related entities and thereby become part of the same "group of investment companies" of PMF, as that term is defined in rule 11a-3 under the Act. The exchange pursuant to each Reorganization will take place on the basis of the relative net asset values per share of each PIF Fund and PMF Fund.

9. Subject to and contingent upon receipt of the affirmative vote of the holders of at least a majority of the outstanding shares of beneficial interest in each affected PIF Fund, the following Reorganizations will take place: (a) the Jennison Fund will acquire substantially all of the assets of the Growth Stock Fund in exchange for shares of the Jennison Fund and the assumption by the Jennison Fund of the liabilities of the Growth Stock Fund; (b) the Balanced Portfolio will acquire substantially all of the assets of the Balanced Fund in exchange for shares of the Balanced Portfolio and the assumption by the Balanced Portfolio of the liabilities of the Balanced Fund; (c) the Government Income Fund will acquire substantially all of the assets of the Income Fund in exchange for shares of the Government Income Fund and the assumption by the Government Income Fund of the liabilities of the Income Fund; (d) the MoneyMart Fund will acquire substantially all of the assets of the Money Market Fund in exchange for shares of the MoneyMart Fund and the assumption by the MoneyMart Fund of

the liabilities of the Money Market Fund; and (e) the International Series will acquire substantially all of the assets of the International Stock Fund in exchange for shares of the International Series and the assumption by the International Series of the liabilities of the International Stock Fund. The Growth Stock Fund, the Balanced Fund, the Income Fund, the Money Market Fund, and the International Stock Fund hereinafter are referred to as the "Acquired Funds," and the Jennison Fund, the Balanced Portfolio, the Government Income Fund, the MoneyMart Fund, and the International Series are referred to as the "Acquiring Funds." The Acquired Funds and the Acquiring Funds together are referred to as the "Funds," and each pair of Funds participating in the Reorganization are referred to as "corresponding Funds."

10. Subject to approval by the shareholders of the PIF Funds at meetings to be held on September 6, 1996, the closing date of the Reorganizations (the "Closing Date") is expected to be September 20, 1996. Pursuant to an Agreement and Plan of Reorganization entered into between each Acquiring Fund and its corresponding Acquired Fund in connection with their Reorganization (each, a "Plan"), each Acquired Fund will endeavor to discharge all of its known liabilities and obligations prior to or as of the Closing Date. Each Acquiring Fund will assume all liabilities, expenses, costs, charges, and reserves or obligations of its corresponding Acquired Fund as of the Closing Date. As soon as conveniently practicable after the Closing Date, each Acquired Fund will distribute *pro rata* to its shareholders of record as of the close of business on the Closing Date the shares of the Corresponding Acquiring Fund received by the Acquired Fund in the Reorganization. The number of full and fractional shares of an Acquiring Fund to be issued to shareholders of its corresponding Acquired Fund will be determined by dividing the net asset value of that Acquired Fund by the net asset value of a Class Z share of that corresponding Acquiring Fund as of 4:15 p.m. on the Closing Date. The net asset value per share of each Fund will be determined by dividing its assets, less liabilities, by the total number of its outstanding shares.

11. The board of trustees of PIF and the boards of directors or trustees of the Acquiring Funds (collectively, the "Boards"), including, in each case, the members of the Boards who are not interested persons, have reviewed and approved the form of each Plan, including the consideration to be paid

or received by each of the Funds. The Boards also have concluded that the Reorganizations are in the best interests of the shareholders of the respective Funds and will not result in the dilution of the interests of any of the existing shareholders of the Acquired Funds or the Acquiring Funds.

12. In recommending approval of the Reorganizations to the shareholders of the Acquired Funds and in approving the terms of the proposed Reorganizations, the Boards considered the following factors: (a) The capabilities and resources of the Acquiring Funds' investment adviser, principal underwriter, administrator, and transfer agent in the areas of marketing, investment, and shareholder servicing; (b) expense ratios and information regarding the fees of the Funds; (c) the comparative investment performance of the Acquired Funds and the Acquiring Funds; (d) the terms and conditions of the Reorganizations and whether the Reorganizations would result in dilution of shareholder interests; (e) the advantages of eliminating competition and duplication of effort inherent in marketing funds with the same investment objective; (f) the compatibility of the Funds' investment objectives, as well as service features available to shareholders in the respective Funds; (g) the cost incurred by the Funds as a result of the Reorganizations; and (h) the tax consequences of the Reorganizations.

13. A prospectus/proxy statement describing the proposed Reorganizations has been sent to shareholders of each Acquired Fund on or about July 29, 1996. Such prospectus/proxy statement discloses the fees and expenses that will be borne by the shareholders of the Acquired Fund after the Reorganizations as shareholders of the Acquiring Funds and the projected expense ratios of the combined funds based upon estimates developed by PMF as manager and administrator to the Acquiring Funds.

14. The consummation of each Reorganization is subject to the conditions set forth in each Plan, including that the parties will have received exemptive relief from the SEC with respect to the order requested herein. Each Fund shall be liable for its expenses incurred in connection with the Reorganizations (except that PIF's International Stock Fund will bear the expense of its Reorganization). Expenses will be allocated *pro rata* in proportion to each Fund's respective assets. Because the International Series will have no assets as of the Closing Date, each PIF International Stock Fund shareholder will receive Class Z shares

of the International Series identical in number and net asset value to his or her International Stock Fund shares.

Applicants' Legal Analysis

1. Section 17(a), in pertinent part, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from selling to or purchasing from such registered company, or any company controlled by such registered company, any security or other property.

2. Section 2(a)(3) of the Act defines the term "affiliated person of another person" to include (a) any person directly or indirectly owning, controlling, or holding with power to vote five percent or more of the outstanding voting securities of such other person, (b) any person five percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by such other person, and (c) any person directly or indirectly, controlling, controlled by, or under common control with such other person. Section 2(a)(3) further provides that the term "affiliated person of another person" includes any investment adviser of such other person if such other person is an investment company. The PIF Funds could be deemed to be an affiliated person of an affiliated person of the PMF Funds because of Prudential's ownership interest in the PIF Funds. Thus, the proposed Reorganizations could be deemed to be subject to the provisions of section 17(a).

3. Section 17(b) provides that the SEC may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

4. Applicants submit that the terms of the proposed Reorganizations meet the standards set forth in section 17(b). The Boards of the Funds, including the members of the Boards who are not interested persons, having reviewed and approved the form of each Plan, including the consideration to be paid or received by each of the Funds. The Boards also have concluded that the Reorganizations are in the best interests of the shareholders of the respective Funds and that the Reorganizations will not result in the dilution of the interests

of any of the existing shareholders of the Acquired Funds or the Acquiring Funds. The Reorganizations are expected to benefit each Fund's shareholders because of estimated lower expense ratios and the expected increase in size of the combined funds, both immediately after the Reorganizations and through improved potential for growth in the future, which should assist in each Fund's ability to invest more effectively, to achieve certain economies of scale and, in turn, to potentially increase its operating efficiencies and facilitate portfolio management.

5. Applicants believe that the terms of the Plans are fair and reasonable and do not involve overreaching on the part of any person concerned. In addition, the proposed Reorganizations are consistent with the policies of the respective Funds recited in their respective registration statements and reports filed under the Act. Applicants assert that granting the requested order is consistent with the provisions, policies and purposes of the Act.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-20719 Filed 8-13-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22128; 812-9890]

Southeast Interactive Technology Fund I, LLC, et al.; Notice of Application

August 9, 1996.

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

ACTION: Notice of Application for Exemption Under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Southeast Interactive Technology Fund I, LLC (the "Fund"), One Room Systems, Inc. (the "Company"), and E. Lee Bryan ("Mr. Bryan").

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act for an exemption from sections 17(a)(1) and (3) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Fund to provide a revolving line of credit to an affiliated person of an affiliated person of the Fund.

FILING DATES: The application was filed on December 13, 1995 and amended on June 19, 1996 and July 29, 1996.

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 August 29, 1996, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: the Fund, 2200 West Main Street, Suite 900, Durham, North Carolina 27705; the Company, 2525 Meridian Parkway, Suite 220, Durham, North Carolina 27713; and Mr. Bryan 2525 Meridian Parkway, Suite 350, Durham, North Carolina 27713.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942-0562, or Alison E. Baur, 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 SEC's Public Reference Branch.

Applicants' Representations

1. The Fund, a North Carolina limited liability company, is a closed-end management investment company that is registered under the Act. The Fund's investment objective is to seek long-term capital appreciation by investing primarily in equity and equity-related securities of interactive information and visual technology companies located in the southeastern United States. On June 13, 1995, the Fund issued 244 shares of membership interest ("Shares") at a purchase price of \$25,000 per Share to 168 "accredited investors" in a private offering conducted in accordance with the provisions of Regulation D under the Securities Act of 1933 (the "Securities Act").

2. Montrose Venture Partners, LLC, an investment adviser that is registered under the Investment Advisers Act of 1940, serves as investment adviser to the Fund (the "Adviser"). Three of the five principals of the Adviser comprise the board of directors (the "Board") of the Fund.

3. The Company is a North Carolina corporation that develops and