observed that specific regulatory guidance on the design of spent fuel pool cooling systems was not issued until 1975 when the Standard Review Plan was issued, after construction permits for most currently operating reactors were issued. Because the regulatory requirements were not constant during the era when the staff was conducting licensing reviews for the current generation of operating reactors, the staff observed that approved designs varied from plant to plant. However, the staff did conclude, based on information available during the recent review of spent fuel pool system design, that all operating reactors had design features for spent fuel storage (addressing accident prevention functions, accident mitigation functions, radiation protection functions, and emergency preparedness functions) which had been reviewed and approved by the staff and that these facility designs were in compliance with the NRC requirements applied at the time of licensing.

Although the NRC staff concluded that plants were in compliance with the NRC design requirements applied at the time of licensing, the NRC staff also recently reviewed certain operating practices at all operating reactors to verify that the plants were being operated consistent with the plant design described in the licensing basis.[7] Specifically, the staff reviewed refueling outage practices with regard to offloading irradiated fuel into the spent fuel pool. The staff concluded on the basis of the information collected and reviewed and the specific licensee actions taken and commitments made during the course of this review, core offload practices are currently consistent with the spent fuel pool decay heat removal licensing basis for all plants or will be prior to the next refueling outage. However, during the course of the review, the staff determined that 9 sites (15 units) needed to perform evaluations or make modifications, pursuant to 10 CFR 50.59 or 10 CFR 50.90, to ensure that their reload practices adhered to their licensing basis. This is an indication that these plants may have previously performed full core offloads inconsistent with their licensing basis.

The staff has documented the details of its findings in recent NRC inspection reports for each of the nine sites. The staff will take regulatory action, as appropriate, to address these potential operational non-conformances.

[7] Memorandum to the Commission, from J. Taylor, dated May 21, 1996.

Petitioner requested that evaluations be performed of Petitioner's concern regarding spent fuel pool cooling by licensees to determine compliance with their licensing basis. This request is granted to the extent that the NRC staff has performed evaluations of both the design and operational aspects of spent fuel pool storage issues for all operating reactors to the extent described above.

C. Issuance of Notices of Enforcement Discretion

The Atomic Energy Act of 1954, as amended, (the Act) and the Energy Reorganization Act of 1974, as amended, give NRC the authority to take enforcement actions necessary to ensure compliance with certain provisions of those Acts and with NRC regulations, orders, and licenses. Licenses include specified license conditions and facility technical specifications which are part of the license. The NRC's enforcement policy is published in NUREG–1600, ''General Statement of Policy and Procedures for NRC Enforcement Actions,'' July 1995 (Enforcement Policy).

The Enforcement Policy recognizes that, on occasion, circumstances may arise concerning a licensee's compliance with a Technical Specification Limiting Condition for Operation or with some other license conditions which would involve an unnecessary plant transient or the performance of plant testing that is inappropriate for the specific plant conditions. For such occasions, the Enforcement Policy provides a process, referred to as a Notice of Enforcement Discretion (NOED), by which the NRC staff, upon request from the licensee, may choose not to enforce compliance with the applicable technical specifications or license conditions in limited circumstances. A NOED will only be issued if the NRC staff is satisfied that the action is consistent with public health and safety.

In Request 4, Petitioner seems to suggest that the exercise of enforcement discretion by issuance of a NOED may be appropriate concerning spent fuel pool issues raised in the Petition. As discussed in Section B, with regard to potential failure of fuel in spent fuel pools, the NRC staff has determined that spent fuel pools contain design features which were reviewed and approved by the staff. In addition, these facility designs have been found to be in compliance with NRC requirements applied at the time of licensing. Based upon the review of the information provided in the Petition, the NRC staff has not identified any circumstances warranting the issuance of a NOED. If a situation is presented to the staff involving a request for a NOED, such a request will be considered in accordance with the Enforcement Policy.

IV. Conclusion

Based on the NRC staff's evaluation described above, the NRC staff has issued generic communications responsive to Petitioner's Request 1. In addition, the NRC staff has reviewed the aspect of compliance of NRC-licensed facilities in the area of spent fuel pool design responsive in part to Petitioner's Request 2. To this extent, the Petition is granted. With regard to Petitioner's Request 4, the NRC staff has concluded that there has been no need for issuance of NOEDs regarding potential failure of fuel in spent fuel pools.

A copy of this Final Director's Decision will be placed in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document room for all power reactor licensees.

A copy of this Final Director's Decision will also be filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c) of the Commission's Regulations. This Decision will become the final action of the Commission 25 days after its issuance, unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 6th day of November 1996.

For the Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–29007 Filed 11–12–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22324; 812–10116]

The Alternative Investment Fund and Pacific Corporate Advisors, Inc.; Notice of Application

November 6, 1996.

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

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: The Alternative Investment Fund (the ''Fund'') and Pacific

Corporate Advisors, Inc. (the ''Adviser'').[1]

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act exempting applicants from section 12(d)(1)(A) of the Act and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: The order would permit the Fund, which will be a registered closed-end investment company, to invest in unaffiliated private investment companies excepted from the definition of investment company by section 3(c)(1) of the Act.[2] The order also would permit the Fund to co-invest with other investment vehicles managed by the Adviser or its affiliates and/or, under certain circumstances, with the Adviser or its affiliates.

FILING DATES: The application was filed on April 30, 1996. Applicants have agreed to file an amendment, the substance of which is incorporated herein, 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 December 3, 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 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. Applicants, c/o Brown & Wood LLP, One World Trade Center, New York, NY 10048–0557.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942–0571, 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. The Fund is a Delaware business trust that intends to register under the Act as a non-diversified, closed-end management investment company. The Fund will offer its shares only to ''accredited investors,'' as defined in rule 501 under the Securities Act of 1933 (''Securities Act''), and the offering will be exempt from registration under the Securities Act. Applicants presently contemplate that the Fund will have at least four individual trustees (''Trustees''), a majority of whom will not be ''interested persons'' of the Fund within the meaning of the Act.

2. The Fund's investment objective will be to achieve long-term capital gains through alternative investments. These investments, which generally are offered only to institutional investors, include indirect investments in limited partnerships and direct investments in privately-negotiated transactions with established companies. Indirect investments include interests in partnerships targeting opportunities in leveraged buyouts, mezzanine capital, venture capital, and project finance. Direct investments are expected to consist of structured investments in or with established corporations in their core areas of business.

3. Applicants expect that a majority of the Fund's alternative investments will constitute indirect investments. The Fund will not acquire 10% or more of the outstanding voting securities of any entity excepted from the definition of investment company under the Act by section 3(c)(1) thereof (''3(c)(1) Entities'')[3] and does not intend to invest more than 15% of its assets in any single investment. Indirect investments will be made in entities managed by parties who are not ''affiliated persons,'' as defined in section 2(a)(3) of the Act, of the Fund. The Fund will not invest in registered investment companies.

4. The Adviser is registered under the Investment Advisers Act of 1940 (the ''Advisers Act'') and is a wholly-owned subsidiary of Pacific Corporate Group, Inc. The Fund will pay an advisory fee to the Adviser based on the net assets or capital of the Fund. This fee may include a performance-based component with respect to direct investments of the Fund that complies with the requirements of the Advisers Act and the rules thereunder. The Adviser will not, however, receive performance-based compensation with respect to indirect investments.

5. In addition to serving as the investment adviser to the Fund, the Adviser or its affiliates also may serve as investment adviser to private accounts on a discretionary basis, and as general partner (or equivalent position) and/or investment adviser to other investment vehicles that are not required to be registered under the Act pursuant to section 3(c)(1). These private accounts and vehciles, along with any similar entity created, advised, sponsored or otherwise organized by the Adviser or its affiliates in the future, are collectively referred to herein as the ''Private Funds.'' To the extent the Adviser acts as the general partner of a Private Fund, the Adviser may make a capital contribution in connection with the organization of such Private Fund, and maintain an interest in items of gain, loss, income, or expense of such Private Funds.

6. Applicants state that the Adviser or its affiliate may be required by a placement agent offering shares of the Fund or a Subsequent Fund at the time of the offering or by a Private Fund to make a commitment to co-invest in all direct investments with the relevant entity in an amount equal to 1% of the entity's investment.

7. Applicants request an order to permit the Fund and any Subsequent Funds to invest in unaffiliated 3(c)(1) Entities. Applicants also request an order to permit the Fund and any Subsequent Funds to make investments of the type described herein, concurrently with one or more Subsequent Fund and/or one or more Private Funds, and, under certain circumstances, with the Adviser or its affiliates (a ''Co-Investment''), subject to the conditions set forth below.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment

[1] Applicants request that any relief granted extend to any future registered investment company advised by the Adviser (''Subsequent Funds'') (together with the Fund, the ''Funds''). Subsequent Funds will be similar to the Fund in terms of structure, investment objective, eligible investors, and offering procedures.

[2] Applicants represent that the Fund's investments in such private investment companies are permitted under the amendments to section 3(c)(1) enacted on October 11, 1996 (''Section 3(c)(1) Amendments''). However, because the Section 3(c)(1) Amendments generally will not become effective until 180 days after the date of enactment, applicants submit that it is appropriate to grant the requested relief at this time.

[3] Section 3(c)(1) of the Act excepts from the definition of investment company issuers whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering.

companies, represent more than 10% of the acquiring company's total assets.

2. Section 3(c)(1) excepts from the definition of investment company issuers whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering. Under section 3(c)(1)(A), if a company owns 10% or more of the shares of a 3(c)(1) Entity, the 3(c)(1) Entity is deemed to be an investment company for purposes of section 12(d)(1). If a 3(c)(1) Entity is deemed to be an investment company for purposes of section 12(d)(1), the ability of any registered investment company, including the Fund, to acquire securities issued by that entity (even if the registered investment company is not itself a 10 percent owner) is restricted. Applicants believe that it is likely that a number of entities in which the Fund will seek to invest may be deemed investment companies solely for purposes of section 12(d)(1) by virtue of the provisions of section 3(c)(1). Although the Fund does not intend to acquire 10% or more of the outstanding voting securities of any 3(c)(1) Entity, it cannot similarly limit the investment by other investors purchasing interests in the same entity.

3. The Fund's investments in any 3(c)(1) Entity in which an investor owns 10% or more of the vehicle's outstanding voting securities become subject to the percentage limitations in section 12(d)(1)(A), including the overall ceiling of 10% of the Fund's assets in such investments in the aggregate. Since the Fund expects to invest in indirect alternative investments at the time they are structured, the Fund will not know at the time it is considering an investment whether the particular entity will have a 10% investor. Consequently, as a result of both the limitations contained in section 12(d)(1)(A) and the related obstacles in determining whether particular investments will be eligible for investment, in the absence of the exemption requested in this application, the Fund's ability to operate in accordance with its objective would be limited.

4. Section 6(c) provides that the SEC may exempt persons or transactions if and to the extent that such 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.

5. Applicants believe that the requested exemption is necessary and 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. Applicants do not believe that the concerns underlying section 12(d)(1) will be present in the case of the Fund. Applicants further believe that the terms and conditions of the requested order will provide significant protection to investors in the Fund.

6. Applicants state that the restrictions in section 12(d)(1) were intended to prevent abuses occurring as a result of pyramiding of investment companies. These abuses related primarily to the following: (i) unnecessary layering of fees and duplication of costs, (ii) undue influence by management of a fund holding company over underlying investment companies, (iii) threat of large scale redemptions out of the underlying funds, and (iv) investor confusion.

7. With respect to layering of fees and duplication of costs, applicants believe that the fees to be paid by the Fund are distinct from those paid by underlying vehicles. Further, the conditions to the relief requested require an express finding by the Trustees that the advisory fees are not based on services duplicative of those provided to entities in which the Fund will invest. The conditions also require that investment advisory fees not include performance-related components, except with respect to direct investments. Such limitation reflects the fact that indirect alternative investments in which the Fund invests will typically pay performance-based compensation to an advisory entity, and is included so that investors in the Fund do not pay duplicative performance compensation. In addition, the conditions limit direct and indirect placement fees and sales charges paid by investors in the Fund.

8. Applicants believe that the Fund's method of operation and the conditions set forth below address the other concerns underlying section 12(d)(1) and provide significant protection to investors. In this regard, the Fund will not have the ability to control underlying investment companies through the threat of large-scale redemptions because the Fund will not acquire 10% or more of a 3(c)(1) Entity and will not invest in securities issued by any investment company registered under the Act. Further, applicants represent that the Fund will not invest for the purpose of obtaining control over underlying investment entities.

9. The Fund will not be confusing to its investors because investors in the Fund will be limited to investors qualifying as accredited investors within the meaning of the Securities Act. In addition, the complexity of the Fund's structure will be limited because the conditions require that the Fund will make an investment in a particular issuer only if the issuer does not, at the time of the Fund's investment, hold securities of another investment company in excess of the limits in section 12(d)(1)(A) of the Act, and does not intend to invest in securities of other investment companies in excess of the section 12(d)(1)(A) limits.

B. Section 17(d)

1. Section 17(d) makes it unlawful for any affiliated person of a registered investment company, acting as principal, to effect any transaction in which such company, or a company controlled by such company, is a joint or joint and several participant with the affiliated person in contravention of SEC rules. Rule 17d–1 provides that the SEC may approve a transaction subject to section 17(d) after considering whether the participation of such registered company is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants request an order pursuant to section 17(d) and rule 17d–1 thereunder, permitting the Fund and any Subsequent Funds to make Co-Investments of the type described herein, subject to the conditions set forth below.

2. Applicants submit that the requested order is necessary and 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. Applicants further assert that the terms and conditions of such relief will ensure that participation by the Fund and/or one or more Subsequent Funds in Co-Investments with one or more Private Funds, and, under certain circumstances, with the Adviser or its affiliates, and/or Subsequent Funds will not be on a basis different from or less advantageous than that of the Private Funds, or, if applicable, the Adviser or its affiliates, and/or Subsequent Funds, and will provide significant protection to investors from the abuses that section 17(d) was designed to protect against. Applicants state that such relief is in the best interest of investors in that it eliminates the concern over whether to allocate a Co-Investment to the Fund or to the Private Funds. Applicants also state that the participation by the Adviser or its affiliate has been formulated to be consistent with the expectations of the market for entities such as the Fund and the Private Funds

and, under the limited ''lock-step'' circumstances contemplated by the terms and conditions of the application, does not raise concerns beyond those raised by the participation of the Private Funds in Co-Investments.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. A majority of the Trustees of each Fund will not be ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Fund.

2. Before approving any investment advisory contract under section 15 of the Act with the Adviser, the Trustees of the Fund, including a majority of the Trustees who are not ''interested persons,'' as defined in the Act, must find that the advisory fees charged under the contract are based on services that are in addition to, rather than duplicative of, services provided to entities in which the Fund will invest. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Fund.

3. Investment advisory fees received by the Adviser from the Funds will be based on each Fund's net assets or capital and will not include performance-based compensation with respect to any indirect investments, but may include performance-based compensation in respect of direct investments to the extent permitted by the Advisers Act and the rules thereunder.

4. A Fund will not acquire 10 percent or more of the outstanding voting securities of an entity excepted from the definition of investment company under the Act by section 3(c)(1) thereof.

5. The Funds will not acquire securities issued by any investment company registered under the Act.

6. Any sales charges or placement fees charged with respect to securities of the Funds, when aggregated with any sales charge or service fees paid by the Funds with respect to securities of the underlying entities, will not exceed the limits set forth in section 2830(d) of the NASD Conduct Rules.

7. The Fund will not invest in an entity which, at the time of the Fund's investment, holds securities of another investment company in excess of the limits contained in section 12(d)(1)(A) of the Act applicable to such entity. Prior to committing to an investment, the Fund will make due inquiry to confirm that the issuer does not intend to invest in investment companies (except to the extent it may hold underlying investments through intermediary vehicles) in excess of the limits contained in section 12(d)(1)(A) of the Act applicable to such issuer. The provisions of this condition shall not be applicable to purchases of shares of money market funds registered under the Act which are acquired by issuers in which the Fund invests and are permitted by section 12(d)(1) of the Act.

8. No Co-Investments (except for follow-on investments made pursuant to condition 15 below) will be made pursuant to the requested order with respect to portfolio companies in which the Adviser, any Fund or Private Fund, or any of their affiliates has previously acquired an interest.

9. The Trustees of each Fund participating in a Co-Investment, including a majority of the non-interested Trustees, will approve Co-Investments in advance. To facilitate the Trustees' determinations, the Adviser will provide the Trustees of a Fund with periodic information listing all investments made by the other Funds, the Private Funds, and/or the Adviser or its affiliate, as applicable, that would be suitable for investment by a Fund.

10. (a) Before making a Co-Investment, the Adviser will make a preliminary determination as to whether each particular Co-Investment opportunity meets the Fund's investment objective, policies, and restrictions. Co-Investment opportunities will be offered to eligible Funds and Private Funds in amounts proportionate to capital available for investment at the time of such opportunities. The Adviser will maintain written records of the factors considered in any preliminary determination.

(b) Following the making of the determination referred to in (a), information concerning the proposed Co-Investment will be distributed to the Trustees. Such information will be presented in written form and will include the name of each Fund and each Private Fund that may participate and, if permitted by condition 11 below, the Adviser or its affiliate and the maximum amount offered to each entity.

(c) Information regarding the Adviser's preliminary determinations referred to in (a) will be reviewed by the Trustees, including the non-interested Trustees. The Trustees, including a majority of the non-interested Trustees, will make an independent decision as to whether to participate and the extent of participation in a Co-Investment based on such factors as are deemed appropriate under the circumstances. If a majority of the non-interested Trustees of the Fund determines that the amount proposed to be invested by the Fund is not sufficient to obtain an investment position that they consider appropriate under the circumstances, the Fund will not participate in the Co-Investment. Similarly, the Fund will not participate in a Co-Investment if a majority of the non-interested Trustees of the Fund determines that the amount proposed to be invested is an amount in excess of that which is determined to be appropriate under the circumstances, although the non-interested Trustees may make a determination that the Fund take other than their allotted portion of an investment, pursuant to condition 12 below. A Fund will only make a Co-Investment if a majority of the non-interested Trustees of the Fund prior to making the Co-Investment conclude, after consideration of all information deemed relevant (including the extent to which such participation is on a basis different from or less advantageous than that of other participants), that the investments by any Private Fund and/or the Adviser or its affiliates, as applicable, would not disadvantage the Fund in the making of such investment, in maintaining its investment position or in disposing of such investment, and that participation by the Fund would not be on a basis different from or less advantageous than that of such Private Fund and/or the Adviser or its affiliate, as applicable. The non-interested Trustees will maintain at the Fund's office written records of the factors considered in any decision regarding the proposed Co-Investment.

(d) The non-interested Trustees will, for purposes of reviewing each recommendation of the Adviser, request such additional information from the Adviser as they deem necessary for the exercise of their reasonable business judgment, and they will also employ such experts, including lawyers and accountants, as they deem appropriate for the reasonable exercise of this oversight function.

11. The Trustees, including a majority of the non-interested Trustees, will make their own decision and have the right to decide not to participate in a particular Co-Investment. There will be no consideration paid to the Adviser or its affiliates, directly or indirectly, including without limitation any type of brokerage commission, in connection with a Co-Investment. However, the Adviser and its affiliates (i) may seek reimbursement from direct investment issuers for documented out-of-pocket expenses approved by the Trustees incurred by the Adviser or its affiliates in connection with a direct investment, (ii) will continue to receive advisory and other fees from the Fund and the Private Funds, and (iii) may participate

in any Co-Investment that is a direct investment wherein the Adviser or its affiliate is required by the placement agent offering shares of the Fund or a Subsequent Fund at the time of the offering or by a Private Fund to commit to co-invest in all direct investments with such entity in the amount of 1% of the investment of each such entity participating in the offering.

12. The Fund will be entitled to purchase a portion of each Co-Investment equal to the ratio of its capital available for investment to the capital available for investment of each other Co-Investment participant (including the interest of the Adviser or its affiliate). Any Co-Investment participant may determine not to take its full allocation, as long as, in the case of a Fund, a majority of the non-interested Trustees determines that not doing so would be in the best interest of the Fund. All follow-on investments (as defined in condition 15 below), including the exercise of warrants or other rights to purchase securities of the issuer, will be allocated in the same manner as initial Co-Investments. If a Fund or Private Fund decides to participate in a Co-Investment opportunity to a lesser extent than its full allocation, that entity's portion may be allocated to the other Co-Investment participants based on their respective capital available for investment. If one or more Funds decline to participate in a Co-Investment opportunity, the remaining Funds and the Private Funds shall have the right to pursue such investment independently. Similarly, if one or more Private Funds decline to participate in a Co-Investment opportunity, the remaining Private Funds and the Funds shall have the right to pursue such investment independently.

13. Co-Investments in securities by a Fund with any other Fund, any Private Fund, and/or the Adviser or its affiliate, as applicable, will consist of the same class of securities, including the same registration rights (if any), and other rights related thereto, purchased at the same unit consideration, and the approval of such transactions, including the determination of the terms of the transactions by the Fund's non-interested Trustees, will be made in the same time period.

14. Except as described below, the Funds, the Private Funds and/or the Adviser or its affiliate, as applicable, will participate in the disposition of securities held by them as Co-Investments on a proportionate basis at the same time and on the same terms and conditions (a ''lock-step'' disposition). For this purpose, a distribution of securities to the partners or shareholders of a Private Fund upon dissolution shall not be deemed a ''disposition'' of securities. (However, to the extent that a Private Fund distributes securities in dissolution to partners or shareholders who are affiliates of the Funds, such partners or shareholders will be bound by the lock-step disposition procedures established herein.) If a Fund or a Private Fund elects to dispose of a security purchased in a Co-Investment with one or more Funds or Private Funds, notice of the proposed sale will be given to the non-interested Trustees of the relevant Fund(s) and to the relevant Private Fund(s) at the earliest practical time. The Funds, the Private Funds, and/or the Adviser or its affiliate, as applicable, will participate in the disposition of such security on a lock-step basis, unless the non-interested Trustees of a Fund determine that the Fund should not participate in such sale or not participate on a lock-step basis. A Fund need not participate on a lock-step basis in the disposition of securities sold by any other Fund or a Private Fund if the non-interested Trustees of the Fund find that the retention or sale, as the case may be, of the securities is fair to the Fund and that the Fund's participation or choice not to participate in the sale on a lock-step basis is not the result of overreaching by any other Fund, any Private Fund, and/or the Adviser or its affiliate, as applicable. If such a finding is not made, then the relevant Fund must participate in such sale on the basis of a lock-step disposition. Like a Fund, a Private Fund may elect not to participate in a sale of securities held as Co-Investments or not to participate on a lock-step basis. If at any time the result of a proposed disposition of any portfolio security held by a Fund or a Private Fund would alter the proportionate holdings of each class of securities held by the other Funds, Private Funds, and/or the Adviser or its affiliate, as applicable, holding the Co-Investment, then the non-interested Trustees of the Fund or Funds involved must determine that such a result is fair to the relevant Fund(s) and is not the result of overreaching by any other Fund, any Private Fund, and/or the Adviser or its affiliate, as applicable. The non-interested Trustees will record in the records of the Fund the basis for their decisions as to whether to participate in such sale.

15. If a Fund or a Private Fund determines that it should make a ''follow-on'' investment (i.e., an additional investment in a portfolio company in which a Co-Investment has been made pursuant to the order requested hereby) in a particular portfolio company whose securities are held by it and one or more Funds, or to exercise warrants or other rights to purchase securities of such an issuer, notice of such transaction will be provided to such other Fund(s), including its or their non-interested Trustees at the earliest practical time. The Adviser will formulate a recommendation as to the proposed participation by a Fund in a follow-on investment and provide the recommendation to the non-interested Trustees of the Fund along with notice of the total amount of the follow-on investment. Each Fund's non-interested Trustees will make their own determination with respect to follow-on investments. Follow-on investments will be entered into on the same basis as initial Co-Investments and will be subject to the same approval procedure as those required for initial Co-Investments. Assuming that the amount of a follow-on investment available to a Fund is not based on the amount of the Fund's initial Co-Investment, the relative amount of investment by each Fund participating in a follow-on investment will be based on a ratio derived by comparing the capital available for investment of each participating Fund, Private Fund and/or the Adviser or its affiliate, as applicable, with the total amount of the available follow-on investment. Each Fund will participate in such investment if a majority of its non-interested Trustees determines that such action is in the best interest of the Fund. The non-interested Trustees of each Fund will record in their records the recommendation of the Adviser and their decision as to whether to engage in a follow-on transaction with respect to that portfolio company, as well as the basis for such decision.

16. A decision by the Trustees of a Fund (i) not to participate in a Co-Investment, (ii) to take less or more than the Fund's full pro rata allocation, or (iii) not to sell, exchange, or otherwise dispose of a Co-Investment in the same manner and at the same time as another Fund or a Private Fund shall include a finding that such decision is fair and reasonable to the Fund and not the result of overreaching of the Fund or its securityholders by the Private Funds and/or the Adviser or its affiliate, as applicable. The non-interested Trustees of each Fund will be provided quarterly for review all information concerning Co-Investments made by the Funds, the Private Funds, and/or the Adviser or its affiliate, as applicable, including Co-

Investments in which the Fund declined to participate, so they may determine whether all Co-Investments made during the preceding quarter, including those Co-Investments they declined, complied with the conditions set forth above. In addition, the non-interested Trustees of each Fund will consider at least annually the continuing appropriateness of the standards established for Co-Investments by the Fund, including whether use of such standards continues to be in the best interest of the Fund and its securityholders and does not involve overreaching of the Fund or its securityholders on the part of any party concerned.

17. No non-interested Trustee of a Fund will be an affiliated person of a Private Fund or have had, at any time since the beginning of the last two completed fiscal years of any Private Fund, a material business or professional relationship with any Private Fund.

18. A Fund, each Private Fund, and/or the Adviser or its affiliate, as applicable, will each bear its own expenses associated with the disposition of portfolio securities. The expenses, if any, of distributing and registering securities under the Securities Act sold by the Fund, one or more Private Funds, and/or the Adviser or its affiliate, as applicable, at the same time will be shared by the Fund, the selling Private Fund(s), and/or the Adviser or its affiliate, as applicable, in proportion to the relative amounts they are selling.

19. Other than as provided in condition 11, neither the Adviser nor any of its affiliates (other than the Private Funds pursuant to any order issued on this application) nor any director of the Fund will participate in a Co-Investment with the Fund unless a separate exemptive order with respect to such Co-Investment has been obtained. For this purpose, the term ''participate'' shall not include either the existing interests of the Adviser or its affiliates in, or their management fee and expense reimbursement arrangements with, Private Funds, and the term ''participate'' shall also not include any reimbursement from direct investment issuers described in condition 11 above.

20. The Fund will maintain all records required of it by the Act, and all records referred to or required under these conditions will be available for inspection by the SEC. The Fund will also maintain the records required by section 57(f)(3) of the Act as if the Fund was a business development company and the Co-Investments were approved by the non-interested Trustees under section 57(f).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29037 Filed 11–12–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22321; 811–9144]

E. Acquisition Corp.; Notice of Application

November 6, 1996.

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

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

APPLICANT: E. Acquisition Corp.

RELEVANT ACT SECTION: Section 8(f).

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

FILING DATE: The application was filed on August 27, 1996, and amended on October 23, 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 December 2, 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. Applicants, 205 East 42nd Street, Suite 2020, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, 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.

APPLICANT'S REPRESENTATIONS

1. Applicant is a non-diversified, closed-end management investment company organized as a corporation under the laws of Delaware. On December 27, 1995, applicant filed a notification of registration on Form N–8A under the Act. Applicant never filed a registration statement under the Act or under the Securities Act of 1933.

2. In connection with its formation, on December 22, 1995, applicant sold 100 shares of common stock to its sole stockholder at a price of $100 per share. Upon dissolution, applicant distributed $10,000 in cash to the stockholder.

3. Applicant has no assets, debts or liabilities. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant has filed a certificate of dissolution under Delaware law.

5. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29042 Filed 11–12–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22323; 812–10174]

SunAmerica Series Trust, et al.; Notice of Application

November 6, 1996.

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

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

APPLICANTS: SunAmerica Series Trust (the ''Series Trust''), SunAmerica Equity Funds (the ''Equity Trust'' or collectively with the Series Trust, ''Trusts'') on behalf of SunAmerica Global Balanced Fund (''Global''), and SunAmerica Asset Management Corp (''SAAMCo'' or the ''Adviser'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 15(a) of the Act and rule 18f–2 thereunder; and from certain disclosure requirements set forth in item 22 of Schedule 14A under the Securities Exchange Act of 1934 (the ''Exchange Act''); items 2, 5(b)(iii), and 16(a)(iii) of Form N–1A; item 3 of Form N–14; item 48 of Form N–SAR; and sections 6–07(2) (a), (b), and (c) of Regulation S–X.

SUMMARY OF APPLICATION: Applicants request an order permitting the Adviser