

6. Options granted under the Director Plan become exercisable at each annual meeting of shareholders (but not in the event applicant holds an annual meeting of shareholders in 1996) with respect to that number of shares that is determined by multiplying the number of shares covered by such option by a fraction, the numerator of which will equal the number of whole months elapsed since the most recent to have occurred of either (a) the date of the grant or (b) the last annual meeting of shareholders, and the denominator of which will be the number of whole months for which such director was elected. The exercise price of the options would be 100% of the current market value of applicant's common stock on the Nasdaq Stock Market at the date of grant, or if the stock is not so quoted at such time, then equal to the current net asset value of the common stock as determined in good faith by members of the board of directors not eligible to participate in the Director Plan.

7. Eligible Directors holding exercisable options under the Director Plan who cease to be eligible directors for any reason, other than death, may exercise the rights they had under such options at the time they ceased to be an eligible director for three months following the date on which such director ceased to be an eligible director. No additional options held by such directors shall become exercisable thereafter. Upon the death of a director, those entitled to do so under the director's will or the laws of descent and distribution will have the right, at any time within twelve months after the date of death, to exercise in whole or in part any rights which were available to the director at the time of his or her death. The Director Plan will expire ten years after the Approval Date and each option will expire five years from the date of grant.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current net asset value upon the exercise of any option issued in accordance with section 61(a)(3) of the Act.

2. Section 61(a)(3)(B) of the Act provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) The options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying securities at the date of the issuance of the options, or if no

such market exists, the current net asset value of such voting securities; (c) the proposal to issue such options is authorized by the BDC's shareholders, and is approved by order of the SEC upon application; (d) the options are not transferable except for disposition by gift, will, or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(a) of the Investment Advisers Act of 1940, except to the extent permitted by clause (A) or (B) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

3. In addition, section 61(a)(3)(B) of the Act provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to an executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed 20% of the outstanding voting securities of the BDC.

4. Applicant represents that the Director Plan and the Initial and the Automatic Grants would meet the requirements of section 61(a). In addition, in support of its application, applicant states that its directors are actively involved in the oversight of applicant's affairs and that applicant relies on the judgment and experience of its directors. Further, applicant states that its directors have extensive and varied financial, regulatory, political, and legal experience which enhance applicant's ability to accomplish its investment objectives. Applicant states that the Director Plan will provide incentives to the Eligible Directors to remain on the board and devote their best efforts to the success of applicant's business.

5. Applicant submits that the terms of the Director Plan are fair and reasonable and do not involve overreaching of applicant or its shareholders. On the Approval Date, the number of applicant's voting securities that would result from the exercise of all options issued or issuable to applicant's directors, officers, and employees under both Plans is 850,000 shares of 10.3% of applicant's outstanding shares on

August 31, 1996. Applicant submits that given the small number of shares of common stock issuable upon the exercise of options which may be granted under the Director Plan should not have a substantial dilutive effect on the net asset value of applicant's common stock. Further, the options will vest in three annual installments commencing with the first annual shareholders' meeting after the Eligible Director's election, appointment, or re-election, and only if the Eligible Director continues to serve on applicant's board of directors.

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

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010-01-M

[Rel. No. IC-22347; File No. 812-10358]

NASL Series Trust, et al.

November 22, 1996.

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

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

APPLICANTS: NASL Series Trust ("Trust"), The Manufacturers Life Insurance Company ("Manulife"), The Manufacturers Life Insurance Company of America ("Manulife America"), Manulife Series Fund, Inc. ("Manulife Series Fund"), Manufacturers Adviser Corporation ("Manufacturers Adviser"), North American Security Life Insurance Company ("Security Life"), First North American Life Assurance Company ("FNAL"), and NASL Financial Services, Inc. ("Financial Services").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 17(b) of the 1940 Act, granting an exemption from the provisions of Section 17(a) thereof, and pursuant to Rule 17d-1 of the 1940 Act, permitting certain transactions.

SUMMARY OF APPLICATION: Applicants seek exemptive relief to permit the merger of each of the investment portfolios of Manulife Series Fund and into portfolios of the Trust that are existing or will be established (the "Reorganization").

FILING DATE: The application was filed on September 19, 1996, and amended on November 21, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a

hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 17, 1996, and must 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 requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o James D. Gallagher, Esq., 116 Huntington Avenue, Boston, Massachusetts 02116 and Sheri L. Kocen, Esq., 200 Bloor Street East, Toronto, Ontario, Canada M4W 1E5. **FOR FURTHER INFORMATION CONTACT:** Pamela K. Ellis, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application

may be obtained for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

- 1. The Trust, a Massachusetts business trust, is an open-end, series investment company registered pursuant to the 1940 Act. Shares of the Trust are sold only to insurance companies and their separate accounts as the underlying medium for variable annuity and variable life insurance contracts. Security Life, FNAL, and Manulife America and their separate accounts are the only shareholders of the Trust.
- 2. Manulife is a Canadian mutual life insurance company.
- 3. Manulife America, an indirect wholly-owned subsidiary of Manulife, is a stock life insurance company, organized under the laws of Pennsylvania, and redomesticated under the laws of Michigan.
- 4. Manulife Series Fund, a Maryland corporation, is an open-end, series, management investment company registered pursuant to the 1940 Act. Shares of Manulife Series Fund are sold only to Manulife America and its separate accounts as the underlying medium for variable annuity and variable life insurance contracts.

- 5. Manufacturers Adviser, a direct wholly-owned subsidiary of Manulife America, is registered pursuant to the Investment Advisers Act of 1940 ("Advisers Act") as an investment adviser.
- 6. Security Life is a Delaware stock life insurance company.
- 7. FNAL, a wholly-owned subsidiary of Security Life, is a New York stock life insurance company.
- 8. Financial Services, a wholly-owned subsidiary of Security Life, is registered pursuant to the Advisers Act as an investment adviser and pursuant to the Securities Exchange Act of 1934 as a broker-dealer.
- 9. Applicants propose that each of the investment portfolios of Manulife Series Fund merge with and into an existing or to be established investment portfolio of the Trust. In the Reorganization, all of the assets and liabilities of each Manulife Series Fund portfolio will be transferred to a corresponding Trust portfolio having a substantially similar investment objective in exchange for shares of such Trust portfolio.
- 10. Shares of each Trust portfolio will be distributed to holders of shares of the respective corresponding Manulife Series Fund as follows:

Manulife series fund portfolio	Trust portfolio
Money-Market Fund	Money Market Trust
International Fund	International Stock Trust
Emerging Growth Equity Fund	Emerging Growth Trust
Balanced Assets Fund	Balanced Trust
Common Stock Fund	Common Stock Trust
Pacific Rim Emerging Markets Fund	Pacific Rim Emerging Markets Trust
Real Estate Securities Fund	Real Estate Securities Trust
Capital Growth Bond Fund	Capital Growth Bond Trust
Equity Index Fund	Equity Index Trust

- 11. Applicants represent that the total value of all shares of each Trust portfolio issued in the Reorganization will equal the total value of the net assets of the corresponding Manulife Series Fund portfolio being acquired by such Trust portfolio. The number of full and fractional shares of a Trust portfolio received by a shareholder of the corresponding Manulife Series Fund will be equal in value to the value of that shareholder's shares of the corresponding Manulife Series Fund portfolio as of the close of regularly scheduled trading on the New York Stock Exchange on the date of the Reorganization.
- 12. On September 27, 1996, the Board of Directors of Manulife Series Fund and the Board of Trustees of the Trust authorized and approved the Reorganization. The Reorganization will

be submitted to a vote of the shareholders of the Manulife Series Fund for approval at a special meeting of shareholders scheduled to be held on December 20, 1996. The sole shareholder of the Manulife Series Fund at the record date for that meeting, October 23, 1996, was Manulife America. Manulife America will vote all shares of Manulife Series Fund in accordance with and in proportion to timely instructions received from owners of the variable contracts issued by it, the values of which were invested in shares of the Manulife Series Fund through the separate accounts at the record date. The Reorganization must be approved by a majority of the outstanding voting shares of each Manulife Series Fund portfolio. Under Massachusetts law, the Reorganization

does not require the approval of the shareholders of the Trust.

13. Financial Services currently serves as investment adviser to the Trust. Manufacturers Adviser currently serves as investment manager of Manulife Series Fund. Following consummation of the Reorganization and pursuant to agreements with Financial Services: (a) Manufacturers Adviser will serve as subadviser to the six of the Trust portfolios—Money Market, Common Stock, Pacific Rim Emerging Markets, Real Estate Securities, Capital Growth Bond, and Equity Index Trusts; (b) Rowe Price-Fleming International, Inc. will serve as subadviser to the International Stock Trust; (c) Founders Asset Management, Inc. will serve as subadviser to the Balanced Trust; and (d) Warburg, Pincus Counsellors, Inc. will serve as

subadviser to the Emerging Growth Trust.

14. Manufacturers Adviser pays all expenses of Manulife Series Fund attributable to the Emerging Growth Equity Fund, Balanced Assets Fund, Capital Growth Bond Fund, Money-Market Fund, Common Stock Fund, and Real Estate Securities Fund except for investment management fees, brokerage commission, taxes, interest and other borrowing-related costs and extraordinary expenses. With respect to the International Fund, the Pacific Rim Emerging Markets Fund, and the Equity Index Fund, the respective portfolio pays investment management fees and the other expenses noted above, plus up to .50 percent, .65 percent, and .15 percent, respectively, of any additional expenses in connection with the operation of these portfolios.

15. Financial Services is responsible for performing or paying for various administrative services for the Trust. Advisory fees are reduced, or Financial Services reimburses the Trust, if the total of all expenses (excluding advisory fees, taxes, brokerage commission, interest, litigation and indemnification expenses, and other extraordinary expenses) applicable to a Trust portfolio exceeds an annual rate of .75 percent for the International Stock Trust and Pacific Rim Emerging Markets Trust, .15 percent for the Equity Index Trust, or .50 percent for all other Trust portfolios. The expense limitations continue in effect from year to year unless terminated upon notice to the Trust.

16. In determining whether to approve the Reorganization and recommend its approval to shareholders, the Board of Directors of Manulife Series Fund (including the directors who are not "interested persons" of the Manulife Series Fund, with the advice and assistance of independent legal counsel) considered various factors, including: (a) The advantages to shareholders of investing in a series fund with a modern strategy of offering investment opportunities that address investor needs at multiple risk/reward levels; (b) the capability of Financial Services to offer flexibility and the potential for greater and more diverse investment opportunities; (c) the multiple manager approach by which Financial Services monitors and evaluates subadviser performance, investment compliance, and capabilities with the goal of maintaining high quality and an appropriate balance of investment alternatives; (d) expense ratios and available information regarding the fees and expenses of each Manulife Series Fund portfolio and each corresponding Trust portfolio, as well as

of similar funds; (e) the fact that Financial Services has agreed to limit the total expenses of certain of the Trust portfolios for one year following the Reorganization to a level no higher than the existing levels of total expense of the corresponding Manulife Series Fund portfolios; (f) the sophistication and specialization of the new subadvisers for certain of the Trust portfolios; (g) the compatibility of the investment objectives, policies, restrictions, and portfolios of each Manulife Series Fund portfolio and each corresponding Trust portfolio; (h) the advantages to each Manulife Series Fund portfolio of investing in potentially larger asset pools with greater diversification; (i) the historical performance of the Manulife Series Fund portfolios and the NASL Money Market Trust, as well as of each portfolio's respective investment adviser and subadviser where relevant; (j) the terms and conditions of the Reorganization and whether the Reorganization would result in dilution of shareholder or contractholder interests; (k) portfolio transaction policies of the Manulife Series Fund portfolios and the Trust portfolios; (l) any direct and indirect costs incurred by each Manulife Series Fund portfolio and each corresponding Trust portfolio as a result of the Reorganization; (m) tax consequences of the Reorganization; and (n) possible alternatives to the Reorganization.

17. In determining whether to approve the Reorganization and recommend its approval to shareholders, the Board of Directors of Manulife Series Fund concluded that the participation of each Manulife Series Fund portfolio in the Reorganization is in the best interests of such portfolio, as well as its shareholders and contract holders whose contract values are invested in shares thereof, and that the interest of existing shareholders and contractholders will not be diluted as a result of such participation. That conclusion was based on various consideration, including that the Reorganization will: (a) Enable contractholders to take advantage of an investment management approach known as managing to the "efficient frontier" in which investors allocate their assets among a broad mix of investment choices consistent with their risk tolerance levels with the goal of maximizing their risk adjusted investment return; (b) allow shareholders to receive the investment advisory services of Financial Services and its multiple manager approach to portfolio management; and (c) permit

shareholders of the Money-Market Fund portfolio of Manulife Series Fund to pursue substantially the same investment goals in a larger fund immediately following the consummation of the Reorganization.

18. Although the expense ratios of five of the Trust's portfolios are higher than the expense ratios of the corresponding Manulife Series Fund portfolios, the Board of Directors of Manulife Series Fund determined that the higher expense ratios are consistent with current industry standards and justified in light of the change in portfolio management of such portfolios and certain agreements with Financial Services to limit for a period of one year following the consummation of the Reorganization certain expense ratios.

19. The Board of Trustees of the Trust determined to approve the Reorganization because it would result in an increase in the total assets of the Trust, and would provide initial assets for new Trust portfolios to be offered after the Reorganization.

Applicants' Legal Analysis

Section 17(a)

1. Section 17(a) of the 1940 Act prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, knowingly from selling or purchasing any security or other property to or from such investment company.

2. Section 2(a)(3) of the 1940 Act, in part, defines an "affiliated person" of another as "the person directly or indirectly controlling, controlled by, or under common control with, such other person." Section 2(a)(9) of the 1940 Act defines "control" in part to mean "the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company."

3. The Trust and Manulife Series Fund may be deemed to be affiliated persons of each other or affiliated persons of affiliated persons under Section 2(a)(3) of the 1940 Act. Section 17(a), therefore, may prohibit the transactions required to effect the Reorganization.

4. Section 17(b) of the 1940 Act provides that the Commission may grant an order of exemption from the provisions of Section 17(a) if evidence establishes that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction

is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed pursuant to the 1940 Act; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

5. Applicants request, pursuant to Section 17(b) of the 1940 Act, an exemption from the provisions of Section 17(a) to permit the Reorganization.

6. The exchange of assets of the Manulife Series Fund portfolios for shares of capital stock of the Trust portfolios will be accomplished on the basis of the net asset value of the respective portfolios; Applicants assert that the Reorganization will therefore not dilute the interests of existing shareholders or contract owners.

7. In determining whether to approve the Reorganization, the Board of Directors of Manulife Series Fund and the Board of Trustees of the Trust found, after considering the factors summarized above, that the terms of the transactions proposed to accomplish the Reorganization are fair and reasonable and do not involve overreaching on the part of any person concerned.

8. The proposed Reorganization has been reviewed by the Board of Directors of Manulife Series Fund and the Board of Trustees of the Trust for consistency with the policies of both the Manulife Series Fund and the Trust. Although the Manulife Series Fund and the Trust have different investment advisers, Applicants assert that they are substantially similar investment vehicles.

9. Applicants assert that the Reorganization is consistent with the general purposes of the 1940 Act and will not result in any of the abuses that the 1940 Act was designed to prevent.

Rule 17d-1

10. Section 17(d) of the 1940 Act prohibits an affiliated person of a registered investment company from effecting any transaction in which the company is a joint participant in contravention of Commission rules.

11. Rule 17d-1(a) prohibits an affiliated person of any registered investment company, acting as principal, from participating in or effecting any transaction in a "joint enterprise or other joint arrangement" in which the company is a participant without prior Commission approval.

12. Rule 17d-1(b) provides that when the Commission is passing upon exemptive applications it is to "consider whether the participation . . . in such joint enterprise, joint arrangement or profit-sharing plan on the basis

proposed is consistent with the provisions, policies and purposes of the [1940] Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants."

13. The expenses of the Reorganization (other than registration fees payable for the registration of shares of each Trust portfolio issued in connection with the Reorganization, which will be payable by such Trust portfolio) will be borne by Financial Services and one or more insurance companies that are affiliates of Manulife Series Fund or the Trust.

14. Applicants assert that the bearing of expenses of the Reorganization by Financial Services and one or more insurance companies that are affiliates of Manulife Series Fund or the Trust could be regarded as a joint enterprise. Applicants therefore request exemptive relief pursuant to Rule 17d-1 of the 1940 Act.

15. As summarized above, Applicants assert that the terms of the proposed transactions are consistent with the policies, provisions, and purposes of the 1940 Act because they are reasonable and fair to all parties, do not involve overreaching, and are consistent with the investment objectives and policies of each portfolio of Manulife Series Fund and of the Trust participating in the proposed transactions. The participation in the Reorganization by each portfolio will be at respective net asset value, and not on a basis different from or less advantageous than that of other participants. Contract owners of each Manulife Series Fund portfolio will have the opportunity to provide voting instructions regarding approval of the Reorganization.

16. Applicants also assert that the participation by affiliates of Manulife Series Fund and the Trust in the transaction is consistent with the requirements of Rule 17d-1. Applicants note that to the extent that expenses of the Reorganization are borne by affiliated insurance companies rather than Financial Services, no benefit will accrue to such affiliates. Moreover, Applicants note that payment of expenses of the Reorganization by Financial Services and the affiliated insurance companies will reduce expenses that would otherwise be payable by the Manulife Series Fund portfolios.

Conclusion

For the reasons summarized above, Applicants submit that the terms of the Reorganization meet the conditions for exemptive relief established by Section

17(b) of the 1940 Act and Rule 17d-1 thereunder.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-30529 Filed 11-29-96; 8:45 am]

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[Release No. 34-37973; International Series Release No. 1031; File No. SR-AMEX-96-36]

November 22, 1996.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange, Inc., Relating to the Policy of the Amex Regarding Information Obtained Pursuant to the SEC's Memorandum of Understanding With the CONSOB

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 2, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. Amex submitted Amendment No. 1 to the filing on November 12, 1996.¹ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Section 19(b)(1) of the Act, the Amex is submitting this rule filing to adopt an official Exchange policy concerning the circumstances and conditions under which the Exchange, in order to carry out its market surveillance and enforcement functions for derivative products containing Italian component securities, may obtain access to information regarding activity on the Italian securities market obtained by the SEC pursuant to the Commission's Memorandum of Understanding ("MOU") with the Commissione Nazionale per le Società e la Borsa ("CONSOB").

¹ On November 12, 1996, Amex submitted Amendment No. 1 to its proposed rule filing, making several clarifications to the original filing. See Letter from Claire P. McGrath, Managing Director and Special Counsel, Amex, to Michael Walinskas, Senior special Counsel, Division, Commission, dated November 7, 1996.