

substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act. Section 26(b) protects the expectation of investors that the unit investment trust will accumulate shares of a particular issuer and is intended to insure that unnecessary or burdensome sales loads, additional reinvestment costs or other charges will not be incurred due to unapproved substitutions of securities.

2. Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the Substitution. Applicants represent that the purposes, terms, and conditions of the Substitution are consistent with the protection for which Section 26(b) was designed. Applicants believe the Substitution will benefit Contractholders because funds in the Separate Accounts would immediately become invested in a larger and more diverse pool of securities than those in which they are currently invested, thereby assuring liquidity. In addition, Applicants assert that the Index Fund provides an investment strategy and level of risk exposure that are comparable to those the MBL Fund. Applicants further assert that the Substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act because the Substitution is an appropriate interim step in connection with the withdrawal of MBL Fund as an investment option under the Contracts and the proposed termination of the Contracts.

3. Applicants represent that the Contractholders have the right, at any time, both before and after the Substitution Date and prior to the Termination Date, to transfer Account Values from the Separate Accounts to any other separate account which funds similar contracts without incurring any additional fees or charges with respect to such transfer at any time. Applicants represent that the Substitution will in no way alter or interfere with this right.

4. Applicants assert that, following the Substitution and until the Termination Date, Contractholders will be afforded the same contract rights, including surrender and other transfer rights with regard to amounts invested under the Contracts, as they currently have. MBLLAC will bear the cost of the Substitution, including any brokerage, legal and/or accounting fees. Contractholders will not incur any additional fees or charges as a result of the Substitution, nor will their rights or the obligations under any of the Contracts diminish in any way. The

Substitution will not result in any adverse tax consequences to any Contractholder, any change in the economic interest or Account Value of any Contractholder or any change in the dollar value of any Contract held by a Contractholder.

5. Section 17(a)(1) of the 1940 Act prohibits any affiliated person or an affiliate of an affiliated person, of a registered investment company, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits such affiliated persons from purchasing any security or other property from such registered investment company.

6. Section 17(b) of the 1940 Act authorizes the Commission to issue an order exempting a proposed transaction from Section 17(a) if: (a) the terms of the proposed transaction are fair and reasonable 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; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

7. Applicants request an order pursuant to Section 17(b) of the 1940 Act exempting them from the provisions of Section 17(a) to the extent necessary to use a portion of the securities received in-kind by the Separate Accounts (the "Accepted Underlying Securities") from MBL Fund to purchase shares of the Index Fund (the "In Kind Transactions").

8. Applicants assert that the proposed In Kind Transactions, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. As part of the In Kind Transactions, MBLLAC on behalf of the Separate Accounts, will seek to simultaneously place redemption requests with MBL Fund and purchase shares of the Index Fund so that purchases will be for the exact amount of the redemption proceeds. The In Kind Transactions will not effect an appreciable economic change on the Contractholders. MBLLAC, on behalf of the Separate Accounts, will effect the redemption in-kind and the transfer of the Accepted Underlying Securities in a manner that is consistent with the investment objectives and policies and diversification requirements applicable to the Index Fund. MBLLC, on behalf of the Separate Accounts, will take appropriate steps to assure that the Accepted Underlying Securities are suitable investments for the Index Fund.

9. Applicants assert that the Substitution is consistent with the general purposes of the 1940 Act and that the In Kind Transactions do not present any of the conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the Substitution and In Kind Transactions should be granted.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 99-1998 Filed 1-27-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23660; 811-7417]

Old Mutual South Africa Equity Trust; Notice of Application

January 22, 1999.

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

ACTION: Notice of Application for Deregistration under section 8(f) of the Investment Company Act of 1940 (the "Act").

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

FILING DATES: The application was filed on September 29, 1998 and amended on December 17, 1998 and January 20, 1999.

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 February 16, 1999, 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. Applicant, Washington Mall Phase II,

4th Floor, 22 Church Street, Hamilton HM11, Bermuda.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942-0584, or Mary Kay Frech, 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 Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC (telephone (202) 942-8090).

Applicant's Representations

1. Applicant is an open-end, management investment company organized as a trust under the laws of the Commonwealth of Massachusetts. On November 9, 1995, applicant filed a Notification of Registration under section 8(a) of the Act on Form N-8A and an initial registration statement on Form N-1A under section 8(b) of the Act. Applicant has not filed any registration statements with respect to its shares under the Securities Act of 1933 ("1933 Act"). Applicant has sold its shares solely in private placement transactions within the meaning of section 4(2) of the 1933 Act, to institutional investors that are "accredited investors" within the meaning of Regulation D under the 1933 Act, as well as to certain investment funds organized outside the United States.

2. Applicant's shares currently are held only by Old Mutual South Africa Growth Assets Fund Limited (the "SAGA Fund"), which owns 10.50% of applicant's shares, and Old Mutual Fund Holdings (Bermuda) ("Old Mutual"), which owns 89.50% of applicant's shares. Old Mutual is a wholly owned subsidiary of the South Africa Mutual Life Assurance Society. The SAGA Fund is organized under the laws of Bermuda, has 20 beneficial owners, and invests all of its investable assets in applicant. Each investor in the SAGA Fund that is, based on its representations, a U.S. person (as defined in Regulation S under the 1933 Act) received prior to the date of its investment in the SAGA Fund written disclosure stating that applicant would seek to deregister under the Act and would, upon completion of the deregistration, no longer be subject to regulation as an investment company under the Act. Each investor in the SAGA Fund may redeem its interest on any day on which the New York Stock Exchange is open for trading.

3. As of December 14, 1998, applicant's assets totaled approximately U.S. \$570 million and applicant had liabilities of approximately \$6,600,000, consisting primarily of investment advisory fees, custodian and administrative charges, and legal and accounting expenses. Applicant intends to continue investing its assets primarily in equity securities of South African issuers.

Applicant's Legal Analysis

1. Section 8(f) of the Act provides that whenever the SEC, upon application or its own motion, finds that a registered investment company has ceased to be an investment company, the SEC shall so declare by order and upon the taking effect of such order, the registration of such company shall cease to be in effect.

2. Section 3(c)(1) of the Act provides that an issuer is not an investment company within the meaning of the Act if (a) its outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons, and (b) it is not making and does not presently propose to make a public offering of its securities.

3. Applicant states that it is not an investment company within the meaning of section 3(c)(1) of the Act because its outstanding securities are owned by fewer than 100 persons and it is not making and does not presently propose to make a public offering of its securities.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc 99-2000 Filed 1-27-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40956; File No. SR-Amex-98-48]

Self-Regulatory Organizations; Notice of Filing of Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Term Notes Linked to Select Sector SPDRSM

January 20, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 21, 1998, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the

Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. 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

The Exchange seeks to list and trade term notes linked to Select Sector SPDRSM,³ traded on the Amex (the "Notes"). Each Note issuance will be linked to a separate Select Sector SPDRSM approved for trading on the Amex. The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the Amex to list term notes, each of which shall be separately linked to one of nine Select Sector SPDRSM approved for trading on the Amex. Under Section 107A of the Amex *Company Guide*, the Exchange may approve for listing and trading securities which cannot be readily

³ The Select Sector SPDRsSM, to which the Notes will be linked, comprise liquid and highly capitalized stocks included in the S&P[®] 500 Index. The nine Select Sector SPDRsSM currently approved for trading on the Exchange are the Basic Industries, Consumer Services, Consumer Staples, Cyclical/Transportation, Energy, Financial, Industrial, Technology and Utilities Select Sector SPDRsSM. Each is offered by the Select Sector SPDRsSM Trust ("Fund"), an open-end management investment company registered under the Investment Company Act of 1940 and has been approved for trading on the Amex pursuant to Amex Rules 1000A through 1003A (Index Fund Shares Rules). Securities Exchange Act Release No. 40749 (December 4, 1998), 63 FR 68483 (December 11, 1998). In addition, Select Sector SPDRsSM may underlie options pursuant Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.