

amount of \$1,000,000 and further issue a Confirmatory Order modifying FPL's operating licenses DPR-31 and DPR-41 for the Turkey Point Nuclear Generating Units 3 and 4, Docket Nos. 50-250 and 50-251. The Order would include requiring an independent assessment of FPL's Employee Concerns Program and management implementation of the program in addition to providing training on the program and advertisement of the program to the employees.

As the basis for this request, the petitioner restates the concerns identified in FPL's self-assessment of their Employee Concerns Program (ECP):

Management attention to the ECP did not meet expectations and management's awareness of the ECP was superficial and program values had not been emphasized with employees.

The ECP facility was of low quality and did not give the impression of being important to management.

There is a perception problem with the ECP in the areas of confidentiality and potential retribution. The perception remains as evidenced by surveys, interviews and the high percentage of anonymous concerns. Previous surveys and assessments identified this perception, but little or no progress has been made in reversing this perception.

The ECP was most frequently thought to be a mechanism to use in addition to discussing concerns with the NRC and not as the first alternative to the Correction Action Program "CAP."

While meeting most of the program requirements and having a technically qualified individual in the ECP coordinator position, the overall effectiveness of the program was marginal.

The ECP representative has very low visibility or recognition in the plant and has not been integrated into the management team or plant activities.

The large percentage of concerns submitted anonymously hampers feedback to concerned individuals. The written feedback process to non-anonymous individuals is impersonal and lacks feedback mechanisms for the ECP coordinator to judge the program's effectiveness.

The ECP process also does not provide assurance that conditions adverse to quality identified in the ECP review process would get entered into CAP, creating potential to miss correction and trending opportunities.

The request is being treated pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. The petitioner met with the Office of Nuclear Reactor Regulation petition review board on March 19 and May 7,

2009, to discuss the petition. The results of that discussion were considered in the board's determination regarding the schedule for the review of the petition. A copy of the petition is available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr.Resource@nrc.gov](mailto:pdr.Resource@nrc.gov).

Dated at Rockville, Maryland, this 19th day of November 2009.

For the Nuclear Regulatory Commission.

**Eric J. Leeds,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. E9-28510 Filed 11-27-09; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29062; File No. 812-13654]

### Members Mutual Funds, et al.; Notice of Application

November 23, 2009.

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

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act.

*Summary of Application:* The requested order would permit certain registered open-end management investment companies to enter into and materially amend subadvisory agreements without shareholder approval.

*Applicants:* Members Mutual Funds ("MMF"), Ultra Series Fund ("USF") and Madison Asset Management, LLC ("MAM").

**DATES:** *Filing Dates:* The application was filed on April 16, 2009, and amended on September 23, 2009 and November 23, 2009.

*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 Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 18, 2009 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 reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. Applicants, W. Richard Mason, Esq., Corporate Counsel and CCO, Madison Asset Management, LLC c/o Madison/Mosaic Legal and Compliance Department, 8777 N. Gainey Center Drive, Suite 220, Scottsdale, AZ 85258.

### FOR FURTHER INFORMATION CONTACT:

Laura L. Solomon, Senior Counsel at (202) 551-6915, or Julia Kim Gilmer, Branch Chief, at (202) 551-6821 (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 via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### Applicants' Representations

1. MMF and USF are open-end management investment companies registered under the Act. MMF is organized as a Delaware business trust. USF is organized as a Massachusetts business trust. MMF is currently comprised of 14 separate series and USF is currently comprised of 18 separate series each of which has its own investment objectives and policies (such series, together with the future series of MMF and USF, the "Funds," and each a "Fund"). Applicants also request relief with respect to current and future series of all registered open-end management investment companies and their series that are now, or in the future, advised by MAM or any entity controlling, controlled by or under common control (within the meaning of section 2(a)(9) of the Act) with MAM, or any successor to MAM (collectively, the "Adviser") that comply with the terms and conditions as set forth in the application and that

uses the services of one or more subadvisors to manage all or a portion of their investment portfolios (the "Management Structure," and such companies and their series included in the term "Funds"), as described more fully in the application.<sup>1</sup>

2. MAM, a Wisconsin limited liability corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). MAM provides overall investment management to MMF, USF and each Fund, subject to the supervision of the board of directors or trustees of each Fund ("Board") pursuant to written agreements ("Management Agreements").<sup>2</sup>

3. The Management Agreements have been approved by a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Board (the "Independent Trustees") and Fund shareholders in the manner required by sections 15(a) and (c) of the Act and rule 18f-2 under the Act. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's assets subject to review and approval of the Board. For the investment management services the Adviser provides to the Funds, the Adviser will receive fees at an annual rate based on each Fund's average net assets. Each investment subadvisor will be recommended by the Adviser and selected and approved by the Board, including a majority of the Independent

Trustees, and is (or will be) registered as an investment adviser under the Advisers Act. Each investment subadvisor has discretionary authority to invest all or a portion of the assets of a particular Fund pursuant to a written investment subadvisory agreement between the investment subadvisor and the Adviser. The fees of the investment subadvisors are paid by the Adviser at rates negotiated with the investment subadvisors by the Adviser and evaluated by the Board. The Adviser will monitor the performance of each investment subadvisor and of the Fund's portfolio and reallocate Fund assets among individual investment subadvisors, or recommend to the Board that the Fund employ or terminate particular investment subadvisors, to the extent the Adviser deems appropriate to achieve the Fund's overall investment objectives.

4. Applicants request an order to eliminate the need for Funds to submit new investment subadvisory agreements, and material amendments to existing investment subadvisory agreements, to shareholders for their approval. The requested relief will not extend to any investment subadvisor who is an "affiliated person," as defined in section 2(a)(3) of the Act, of the Funds or the Adviser (other than by reason of serving as investment subadvisor to one or more Funds) ("affiliated investment subadvisor"). Shareholder approval will continue to be required for each investment subadvisory agreement with an affiliated investment subadvisor.

#### Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, 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. Applicants

believe that the requested relief meets this standard.

3. Applicants state that investors in any subadvised Fund are, in effect, electing to have the Adviser select one or more investment subadvisors best suited to achieve a Fund's investment objectives. Applicants assert that, the role of the investment subadvisor, from the perspective of the investor, is comparable to that of individual portfolio managers employed by other investment company investment advisory firms. Applicants contend that requiring shareholder approval of investment subadvisory agreements would not serve the purpose intended by the Act. Such requirements would place costs and burdens on the Funds and their shareholders that would not advance such shareholders' interests and would merely increase the Fund's expenses and delay the prompt implementation of actions deemed advisable by the Adviser and the Board. Applicants also note that the Management Agreement between the Adviser and each of the Funds will be subject to the shareholder approval requirements in section 15(a) and 15(c) of the Act and rule 18f-2 under the Act.

#### Applicants' Conditions

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

1. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's assets, and, subject to the review and approval of the Board, will: (i) Set the overall investment strategies of the Funds; (ii) evaluate, select and recommend investment subadvisors to manage all or part of a Fund's assets; (iii) allocate and, when appropriate, reallocate the assets of the Funds among investment subadvisors in those cases where a Fund has more than one investment subadvisor; (iv) monitor and evaluate the investment performance of the investment subadvisors, including their compliance with the investment objectives, policies and restrictions of the Funds; and (v) implement procedures reasonably designed to ensure that the investment subadvisors comply with the relevant Fund's investment objective, policies and restrictions.

2. Before any Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of its outstanding voting securities, as defined in the Act, or, in the case of a Fund

<sup>1</sup> The term "successor" is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. Any existing entity that currently intends to rely on the requested relief is named as an applicant. If a Fund has the name of any investment subadvisor in the Fund's name, the investment subadvisor's name will be preceded by the name of the Adviser.

<sup>2</sup> Under a prior order, the Commission granted relief to Members Capital Advisors, Inc. ("MCA") (f/k/a CIMCO, Inc.) and MMF from the provisions of section 15(a) of the Act and rule 18f-2 under the Act, pursuant to which MCA retained investment subadvisors for certain of the Funds. *Members Mutual Funds and CIMCO, Inc.*, Investment Company Act Release Nos. 23365 (July 29, 1998) (notice) and 23400 (August 25, 1998) (order) ("Existing Order"). On April 15, 2009, MCA, an indirectly wholly owned subsidiary of CUNA Mutual Insurance Society ("CMIS") and CMIS entered into an agreement under which MAM would become the investment adviser to the Funds (the "Transaction"). The Transaction was approved by Fund shareholders and MAM now serves as the Funds' investment adviser. The Funds wish to continue to operate in a manner consistent with the Existing Order. On June 30, 2009, MAM received a no-action letter (Ref. No. 2009-3-1CR), permitting MAM to rely on the Existing Order until the earlier of the receipt of any order granted by the Commission on the application or December 30, 2009.

whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 4 below, by the initial shareholder(s) before offering shares of such Fund to the public.

3. Within 90 days of the hiring of any new investment subadvisor, the Adviser will furnish shareholders of the affected Fund with all information about such investment subadvisor that would be included in a proxy statement, including any change in such disclosure caused by the addition of the new investment subadvisor. To meet this condition, the Funds will provide shareholders with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

4. Each Fund will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the Management Structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee investment subadvisors and recommend their hiring, termination and replacement.

5. No trustee or officer of any Fund, or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such director, trustee, or officer) any interest in an investment subadvisor except for: (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or under common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt securities of any publicly-traded company that is either an investment subadvisor or an entity that controls, is controlled by or is under common control with an investment subadvisor.

6. The Adviser will not enter into investment subadvisory agreements on behalf of a Fund with any affiliated investment subadvisor without such agreement, including the compensation to be paid under the agreement, being approved by the shareholders of the applicable Fund.

7. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

8. When a change of investment subadvisor is proposed for a Fund with an affiliated investment subadvisor, the

Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the minutes of meetings of the Board, that any such change of investment subadvisors is in the best interest of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the affiliated investment subadvisor derives an inappropriate advantage.

9. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the requested order, the requested order will expire on the effective date of that rule.

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

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. E9-28560 Filed 11-27-09; 8:45 am]

**BILLING CODE P**

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

**In the Matter of Customer Sports, Inc., Leonidas Films, Inc. (n/k/a Consolidated Pictures Group, Inc.), Sportsprize Entertainment, Inc., U.S. Interactive, Inc., and USA Biomass Corp.; Order of Suspension of Trading**

November 25, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Customer Sports, Inc. because it has not filed any periodic reports since the period ended April 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Leonidas Films, Inc. (n/k/a Consolidated Pictures Group, Inc.) because it has not filed any periodic reports since the period ended March 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sportsprize Entertainment, Inc. because it has not filed any periodic reports since the period ended August 31, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of U.S. Interactive, Inc. because it has not filed any periodic reports since the period ended September 30, 2000.

It appears to the Securities and Exchange Commission that there is a

lack of current and accurate information concerning the securities of USA Biomass Corp. because it has not filed any periodic reports since the period ended December 31, 2002.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on November 25, 2009, through 11:59 p.m. EST on December 9, 2009.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E9-28639 Filed 11-25-09; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61043; File No. SR-NYSE-2009-116]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to Increase the Ceiling on Its Equity Ownership Interest in BIDS Holdings L.P. to Less Than 10%**

November 20, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on November 18, 2009, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 proposes to increase the ceiling on the Exchange's equity ownership interest in BIDS Holdings L.P. ("BIDS"), a member of the Exchange, to less than 10% from the current level of less than 9%, pursuant to the pilot program that provides an exception to NYSE Rule 2B by permitting such equity ownership as

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.