

Pursuant to rule 17a-8 under the Act, the Board determined that the proposed reorganization was in the best interest of applicant and that the interests of the existing shareholders would not be diluted as a result of the proposed reorganization.

5. A proxy statement was filled with the SEC on September 24, 1996, and distributed to applicant's shareholders on November 5, 1996. Applicant's shareholders approved the Plan on December 13, 1996.

6. On December 20, 1996 (the "Closing Date"), there were 35,882,668.46 shares of common stock of the Acquired Fund outstanding having an aggregate net asset value of \$35,873,215.52 and a per share net asset value of \$1.00. Pursuant to the Plan, on the Closing Date, applicant transferred all of its assets and liabilities to the Acquiring Fund in exchange solely for shares of the Acquiring Fund. Shares of the Acquiring Fund were distributed *pro rata* to shareholders of the Acquired Fund, causing the liquidation of applicant. The net asset value of shares of the Acquiring Fund was identical to the net asset value of shares of the Acquiring Fund owned by such shareholders.

7. Legg Mason Fund Adviser, Inc., the Acquiring Fund's manager, and Western Company will be liable for all expenses incurred in connection with the reorganization and with applicant's liquidation and winding up, including professional fees, printing and mailing expenses, and the cost of proxy solicitations made by telephone or otherwise. Applicant incurred no expenses in connection with the reorganization.

8. As of the date of the application, applicant had no securityholders, liabilities, or assets, and was not a party to any litigation or administrative proceeding. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

9. Applicant has filed with the State of Ohio a Resolution of Withdrawal of Business Trust by the Trustees.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-22735; 812-10592]

### The Riverfront Funds, Inc., et al.; Notice of Application

July 7, 1997.

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

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

**APPLICANTS:** The Riverfront Funds, Inc. (the "Company"), The Riverfront Funds (the "Trust"), and The Provident Bank (the "Bank").

**RELEVANT ACT SECTIONS:** Order requested under section 17(b) for an exemption from sections 17(a)(1) and 17(a)(2).

**SUMMARY OF APPLICATION:** Applicants request an order to permit the Company to transfer all the assets and liabilities of certain of its series to the Trust in exchange for shares of corresponding series of the Trust (the "Reorganization").

**FILING DATES:** The application was filed on March 26, 1997, and amended on June 20, 1997. By letter dated July 3, 1997, applicants' counsel stated that an amendment, the substance of which is incorporated herein, will be filed 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 July 30, 1997, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. The Company and the Trust, 3435 Stelzer Road, Columbus, Ohio 43219-

3035, and the Bank, 309 Vine Street, Cincinnati, Ohio 45202.

### FOR FURTHER INFORMATION CONTACT:

Brian T. Hourihan, Senior Counsel, at (202) 942-0526, or Mercer E. Bullard, 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 Company, a Maryland corporation, is a registered open-end management investment company. The Company operates as a series company and currently offers shares of the following series: The Riverfront U.S. Government Securities Money Market Fund (the "Company Money Market Fund"), The Riverfront U.S. Government Income Fund (the "Company Government Income Fund"), The Riverfront Income Equity Fund (the "Company Income Equity Fund"), The Riverfront Ohio Tax-Free Bond Fund (the "Company Tax-Free Bond Fund"), The Riverfront Balanced Fund (the "Company Balanced Fund"), The Riverfront Stock Appreciation Fund (the "Company Stock Appreciation Fund"), and The Riverfront Large Company Select Fund (the "Company Large Company Select Fund") (the "Acquired Series").<sup>1</sup> Except for the Company Money Market Fund, each Acquired Series offers shares of two classes, Investor A Shares and Investor B Shares. The Company Money Market Fund offers shares of one class, Investor A Shares.

2. Investor A Shares of each Acquired Series, other than the Company Money Market Fund, are sold with a sales charge of 4.50% which declines as the amount invested increases, all or a portion of which may be waived under certain circumstances. Investor A Shares of the Company Money Market Fund are sold without a sales charge. Investor A Shares of each Acquired Series also are subject to a distribution fee pursuant to rule 12b-1 under the Act ("rule 12b-1 fee") of up to .25% of average daily net assets. Investor B Shares of each Acquired Series, other than the Company Money Market Fund, are sold subject to a contingent deferred sales charge that declines over time from 4% to 1% and which may be waived for

enforcement action under section 17(a) of the Act if investment companies that are affiliated persons solely by reason of having investment advisers that are under common control rely on rule 17a-8. See e.g., Capital Mutual Funds and Nations Fund Trust (pub. avail. Feb. 24, 1994).

<sup>1</sup> The Company Stock Appreciation Fund is not an applicant for relief hereunder and, unless stated otherwise, the term Acquired Series as used herein hereinafter will exclude such series.

certain redemptions. Investor B Shares of each Acquired Series, other than the Company Money Market Fund, also are subject to a rule 12b-1 fee of up to 1% of average daily net assets. Investor B Shares outstanding for eight years automatically convert to Investor A Shares.

3. The Trust, an Ohio business trust, has been organized to succeed to the assets, liabilities, and operations of the Company. The Trust is authorized to issue shares of the following series: The Riverfront U.S. Government Securities Money Market Fund (the "Trust Money Market Fund"), The Riverfront U.S. Government Income Fund, The Riverfront Income Equity Fund, The Riverfront Ohio Tax-Free Bond Fund, The Riverfront Balanced Fund, The Riverfront Small Company Select Fund (the "Trust Small Company Select Fund"), and The Riverfront Large Company Select Fund (the "Acquiring Series").<sup>2</sup> The Acquiring Series' investment objectives, policies and restrictions are identical in all material respects to those of the Acquired Series. Currently, the Trust has four trustees, three of whom are identical to the four directors of the Company. The Trust's officers are identical to the Company's officers. Except for the Trust Money Market Fund, each of the Acquiring Series currently is authorized to offer two classes of shares, Investor A Shares and Investor B Shares. The Trust Money Market Fund currently is authorized to issue shares of one class, Investor A Shares. The Trust has been authorized to enter into written service provider agreements and distribution plans, and has adopted policies and procedures identical in all material respects to the service provider agreements, distribution plans, and policies and procedures now in place for the Company, and with the identical service providers, and has retained the same firm of independent public accountants.

4. The Bank, an Ohio banking corporation, is a subsidiary of Provident Bancorp, Inc., a publicly held bank holding company. The Bank serves as investment adviser, fund accountant, transfer agent, and custodian for both the Company and the Trust. On February 28, 1997, Provident and its affiliates, directly or indirectly, owned, controlled, or held the power to vote 41.9% of the outstanding shares of the Company Money Market Fund, 94.5% of the Company Government Income Fund, 16.0% of the Company Income

Equity Fund, 87.4% of the Company Tax-Free Bond Fund, 19.3% of the Company Balanced Fund, 1.9% of the Company Stock Appreciation Fund, and 99.6% of the Company Large Company Select Fund.

5. The Company and the Trust have entered into an agreement and plan of reorganization and liquidation, dated as of March 21, 1997 (the "Agreement"). The principal purpose of the Reorganization is to change the domicile of the Company from that of a Maryland corporation to that of an Ohio business trust. The board of directors of the Company (the "Company Board") believes that operation as an Ohio business trust will provide greater latitude and flexibility of operation than operating the business as a Maryland corporation, which, in turn, may result in some cost savings. Under the Agreement, the Company has agreed to sell all of the assets, subject to liabilities, of each of the Acquired Series to the Trust and its corresponding Acquiring Series, in exchange for assumption of all of the Acquired Series' liabilities and the issuance and constructive delivery<sup>3</sup> of Investor A Shares and Investor B Shares of the corresponding Acquiring Series of the Trust (Investor A Shares only for the Trust Money Market Fund) equal in net asset value, at the close of business on July 31, 1997 (the "Valuation Time"), to the value of the Investor A Shares and Investor B Shares of the corresponding Acquired Series.<sup>4</sup> Thereafter, such shares constructively will be distributed *pro rata* to the respective Acquired Series' shareholders in proportion to the number and class of Acquired Series shares owned as of 9:00 a.m., on August 1, 1997, upon the liquidation and dissolution of the Company and the Acquired Series.

6. The Company Board, including the directors who are not "interested persons" as defined in section 2(a)(19) of the Act, considered the Reorganization on August 16, 1996, and

<sup>3</sup> "Constructive distribution" means that, for state and tax law purposes, the Trust will issue and deliver to the Company, and the Company will distribute to its shareholders upon its liquidation, shares of the appropriate Acquiring Series only as bookkeeping entries, and that no share certificates representing ownership of the Acquiring Series actually can or will be issued, delivered and distributed.

<sup>4</sup> Because the Acquiring Series will have no assets or liabilities as of the Valuation Time, the net asset value per share of each of the Investor A Shares and Investor B Shares of an Acquiring Series (Investor A Shares only of the Trust Money Market Fund) has been established initially to equal the net asset value per share of the Investor A Shares and Investor B Shares of the corresponding Acquired Series (Investor A Shares of the Company Money Market Fund) as of the Valuation Time.

unanimously approved the Agreement on October 21, 1996. The sole trustee of the Trust (the "Trust Board") approved the Agreement on October 21, 1996.<sup>5</sup> Proxy solicitation materials of the Company describing the Trust, the Reorganization and the Agreement were mailed to the Company's shareholders on June 26, 1997, and a special meeting of shareholders will be held to consider the Agreement on or about July 31, 1997. Subject to shareholder approval of the Agreement, and the issuance by the SEC of the requested order, the Reorganization will be completed on or about August 1, 1997. Maryland law and the Company's articles of incorporation require both director and shareholder approvals for certain organizational changes (including change of domicile reorganizations such as the Reorganization).

7. In considering the Agreement, the Company Board, including the directors who are not "interested persons" as defined in the Act, and the Trust Board, found that participation in the Reorganization is in the best interests of the shareholders of the Company and the Trust, and that the interests of the shareholders of the Acquired Series and the Acquiring Series, respectively, will not be diluted as a result of the Reorganization. The factors considered by each of the Company Board and the Trust Board included, among others, (a) the business objectives and purposes of the Reorganization, (b) the fact that the investment objectives, policies, and restrictions of the respective Acquired Series are identical to those of the Acquiring Series, (c) the terms and conditions of the Agreement, including the allocation of expenses of the Reorganization, and (d) the tax-free nature of the Reorganization.

8. Each of the Company and the Trust will pay its respective fees and expenses of the Reorganization, and the Trust will pay its own organization costs and the Company will be responsible for the proxy solicitation and other costs associated with the shareholders meeting.

9. Completion of the Reorganization is subject to a number of conditions precedent, in addition to approval of the Agreement by the Company Board and the shareholders, including that (a) the Company and the Acquired Series, and the Trust and the Acquiring Series have received opinions of counsel stating, among other things, that the Reorganization will constitute a

<sup>2</sup> The Trust Small Company Select Fund is not an applicant for relief hereunder and, unless stated otherwise, the term Acquiring Series as used herein hereinafter will exclude such series.

<sup>5</sup> On such date and in connection with the Reorganization, the officers of the Trust were authorized to cause the Trust to adopt and succeed to the Company's registration statement.

"reorganization" under section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), that each of the corresponding Acquiring Series and Acquired Series is a "party to a reorganization" within the meaning of section 368(b) of the Code and, as a consequence, the Reorganization will be tax-free for each of the Acquiring Series and Acquired Series and their respective shareholders, and (b) the Company and the Trust shall have received the order requested in the application. After entry of an order by the SEC granting the relief requested in the application, neither the Company nor the Trust will make any material changes to the Agreement that affect the application without the prior approval of the SEC staff.

#### Applicants' Legal Analysis

1. Sections 17(a)(1) and 17(a)(2) of the Act prohibit any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from knowingly selling to or purchasing from such registered company any security or other property. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with the power to vote, 5 per centum or more of the outstanding voting securities of such other person; (b) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with the power to vote, by such other person; (c) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and, (d) if such other person is an investment company, any investment adviser thereof.

2. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the 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; and (b) the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

3. Rule 17a-8 generally exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied. Applicants

believe that, because Provident and its affiliates own, control, or hold with the power to vote 5% or more of the outstanding voting securities of each Acquired Series and because Provident is the investment adviser to the Company and the Trust, and each of their respective series, Provident may be an affiliated person of the Company and the Trust, and each of the Acquired Series and the Acquiring Series, under section 2(a)(3)(C) of the Act for reasons in addition to having common directors/trustees and officers and a common investment adviser. Applicants believe that the Company therefore is an affiliated person of an affiliated person of the Trust prohibited by section 17(a)(1) from selling any security or other property to the Trust, and that applicants may not rely on rule 17a-8. For this reason, applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganization.

4. Applicants submit that the Reorganization satisfies the requirements of section 17(b). Applicants state that the shareholders of the Acquired Series, in effect, will become shareholders of Acquiring Series, the investment objectives, policies and restrictions of which are identical to those of the Acquired Series, pursuant to an exchange which is based on the relative net asset values of such shares and no sales charge or contingent deferred sales charge will be incurred by shareholders of the Acquired Series in connection with their acquisition of Acquiring Series shares. In addition, applicants note that the Company Board and the Trust Board, including directors who are not "interested persons" as defined in the Act, have respectively determined that the Reorganization is in the best interest of the Company and the Trust and of the shareholders, respectively, of the Acquired Series and the Acquiring Series. Finally, applicants submit that the Reorganization, if undertaken in the manner described in the application, is consistent with the general purposes of the Act as set forth in section 1(b) of the Act.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #2960]

#### State of Michigan

Allegan County and the contiguous Counties of Barry, Kalamazoo, Kent, Ottawa, and Van Buren in the State of Michigan constitute a disaster area as a result of damages caused by severe storms and flooding which occurred on June 20 and 21, 1997. Applications for loans for physical damages may be filed until the close of business on September 4, 1997 and for economic injury until the close of business on April 3, 1998 at the address listed below or other locally announced locations:

U.S. Small Business Administration,  
Disaster Area 1 Office, 360 Rainbow  
Blvd., South, 3rd Fl., Niagara Falls,  
NY 14303

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE ....	8.000
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE .....	4.000
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE ....	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE .....	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE .....	7.250
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE ....	4.000

The number assigned to this disaster for physical damage is 296006 and for economic injury the number is 952500.

Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 3, 1997.

**Aida Alvarez,**

*Administrator.*

[FR Doc. 97-18425 Filed 7-11-97; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF TRANSPORTATION

### Aviation Proceedings, Agreements Filed During the Week of July 4, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.