

**SECURITIES AND EXCHANGE COMMISSION****Proposed Collection; Comment Request**

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

**Extension:**

Rule 30d-1, SEC File No. 270-21,  
OMB Control No. 3235-0025

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

Rule 30d-1, under the Investment Company Act of 1940, "Reports to Stockholders of Management Companies" prescribes the minimum content of reports to shareholders that every registered investment company must send at least semi-annually, containing the information specified by the statute or its equivalent as the Commission may determine to be in the interest of the investors. The reports are required in order to inform current shareholders of the status of the company. The rule requires approximately 602 hours annually for each of the 3,850 respondents equalling 2,317,700 total annual burden hours.

The estimates of burden hours set forth above are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of SEC rules and forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.

Dated: August 7, 1997.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 97-21447 Filed 8-13-97; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Rel. No. IC-22784; 812-10546]

**Alliance All-Market Advantage Fund, Inc.; Notice of Application**

August 8, 1997.

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

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

**SUMMARY OF APPLICATION:** Applicant requests an order under section 6(c) of the Act granting an exemption from section 19(b) of the Act and rule 19b-1 to permit it to make up to five distributions of long-term capital gains in any one taxable year, so long as it maintains in effect a distribution policy calling for quarterly distributions of a fixed percentage of its net asset value.

**FILING DATE:** The application was filed on March 7, 1997, and amended on July 8, 1997.

**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 September 3, 1997, and should be accompanied by proof of service on 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 5th Street, N.W., Washington, D.C. 20549. Applicant, 1345 Avenue of the Americas, New York, New York 10105.

**FOR FURTHER INFORMATION CONTACT:** John K. Forst, Attorney-Advisor, at (202) 942-0569, or Mary Kay French, 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 at the SEC's Public Reference Branch, 450 5th Street NW., Washington, D.C. 20549 (tel. 202-942-8090).

**Applicant's Representations**

1. Applicant is a closed-end non-diversified management investment company organized as a Maryland corporation. Applicant's investment objective is to seek long-term growth of capital through all market conditions.

2. Applicant currently has a "Quarterly Distribution Policy" pursuant to which it makes quarterly distributions of 2% of applicant's net asset value, determined as of the beginning of the quarter, for each of the first three calendar quarters of each year. Applicant's fourth calendar quarter distribution for each year is an amount equal to at least 2% of applicant's net asset value determined as of the beginning of that quarter. If, with respect to any quarterly distribution, net investment income and net realized short-term capital gains are less than the amount of the distribution, the difference is distributed from other assets. Applicant's final distribution for each calendar year includes any remaining net investment income and net realized short-term capital gains deemed, for federal income tax purposes, undistributed during the year, as well as any net long-term capital gains realized during the year. If, for any fiscal year, the total distributions exceed net investment income and net realized capital gains, the excess, distributed from other assets, is treated as a return of capital.

3. Applicant's fiscal year ends on September 30. To avoid the excise tax under Section 4982 of the Internal Revenue Code of 1986, as amended, (the "Code") applicant may need to make a fifth distribution of net long term capital gains in a taxable year.<sup>1</sup>

**Applicant's Legal Analysis**

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the SEC may

<sup>1</sup> Section 4982 of the Code requires an investment company each year to distribute 98% of its capital gain net income for the one-year period ending on October 31 of that year. Because applicant's fiscal year ends on September 30, it is possible that applicant may need to make a distribution of net long-term capital gains realized during October in a given year in order to avoid the excise tax under Section 4982.

prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b-1(a) permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Code. Rule 19b-1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b-1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. Applicant asserts that the limitation on the number of net long-term capital gains distributions in rule 19b-1 in effect prohibits applicant from including available net long-term capital gains in certain of its quarterly distributions. As a result, applicant must fund these quarterly distributions with returns of capital (to the extent net investment income and realized short-term capital gains are insufficient to cover a quarterly distribution). Applicant further asserts that, in order to distribute all of its long-term capital gains within the limits on the number of long-term capital gains distributions in rule 19b-1, applicant may be required to make certain of its quarterly distributions in excess of the fixed percentage called for by its policy. Alternatively, applicant states that it may be forced to retain long-term capital gains and pay the applicable taxes.

3. Applicant asserts that the application of rule 19b-1 to its Quarterly Distribution Policy may cause anomalous results and create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals. Applicant requests relief to permit it to make up to five distributions of long-term capital gains in any one taxable year, provided applicant maintains in effect a distribution policy calling for quarterly distributions of a fixed percentage of applicant's net asset value. Applicant represents that a fifth distribution will be made only if necessary to avoid the excise tax under Section 4982 of the Code.

4. Applicant believes that the concerns underlying section 19(b) and rule 19b-1 are not present in applicant's situation. One of these concerns is that shareholders might not be able to distinguish frequent distributions of capital gains and dividends from investment income. Applicant states that the Quarterly Distribution Policy has been fully and repeatedly described in applicant's communications to its shareholders, including annual reports

and its prospectus. In addition, a statement showing the amount and source of distributions received during the year is included with applicant's IRS Form 1099-DIV report sent to each shareholder who received distributions during the year (including shareholders who sold shares during the year). Applicant believes that its shareholders fully understand that their distributions are not tied to applicant's net investment income and realized capital gains and do not represent yield or investment return.

5. Another concern underlying section 19(b) and rule 19b-1 is that frequent capital gains distributions could facilitate improper sales practices, including in particular, the practice of urging an investor to purchase fund shares on the basis of an upcoming distribution ("selling the dividend"), when the distribution would result in an immediate corresponding reduction in net asset value and would be, in effect, a return of the investor's capital. Applicant believes that this concern does not apply to closed-end investment companies, such as applicant, which do not continuously distribute shares.

6. Applicant states that increased administrative costs also are a concern underlying section 19(b) and rule 19b-1. Applicant asserts that it will continue to make quarterly distributions regardless of whether capital gains are included in any particular distribution.

7. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, if and to the extent 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. For the reasons stated above, applicant believes that the requested exemption meets the standards set forth in section 6(c).

#### **Applicant's Condition**

Applicant agrees that the order granting the requested relief shall terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by applicant of its shares other than: (i) A non-transferable rights offering to shareholders of applicant, provided that such offering does not include solicitation by brokers or the payment of any commissions or underwriting fee; and (ii) an offering in connection with a merger, consolidation, acquisition, or reorganization; unless applicant has received from the staff of the

Commission written assurance that the order will remain in effect.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-21566 Filed 8-13-97; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. IC-22783; File No. 812-10680]

### **Mutual Fund Variable Annuity Trust, et al.**

August 7, 1997.

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

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

**APPLICANTS:** Mutual Fund Variable Annuity Trust (the "Trust"), The Chase Manhattan Bank (the "Adviser") and certain life insurance companies and their separate accounts that do now or may in the future purchase shares of capital stock ("Shares") in the Trust.  
**RELEVANT 1940 ACT SECTIONS:** Order requested under Section 6(c) of the 1940 Act from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order of exemption to the extent necessary to permit Shares of the Trust to be sold to and held by: (i) Variable annuity and variable life insurance separate accounts ("Separate Accounts") of both affiliated and unaffiliated life insurance companies ("Participating Insurance Companies"), and (ii) certain qualified pension and retirement plans outside of the separate account context.

**FILING DATE:** The application was filed on May 22, 1997.

**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. September 2, 1997, 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 writer's interest, the reason for the