JWCFS would be the surviving corporation in the Merger.

5. Prior to the Merger, AGRO's minority shareholders will receive a prospectus with respect to the shares of JWCFS common stock being offered in connection with the Merger (the ''Prospectus'') which discloses the terms and the effective date of the Merger and the consideration to be paid by JWCFS. In addition, the Prospectus will inform AGRO's minority shareholders of their appraisal rights under Maryland law. The appraisal rights would entitle the shareholders to dissent from the Merger and receive the fair value of their shares of AGRO in cash.

6. The Merger will constitute a reorganization pursuant to section 368(a) of the Internal Revenue Code of 1986, as amended. Any AGRO minority shareholder receiving solely shares of JWCFS in the Merger will not recognize any gain or loss for federal income tax purposes. In addition, the Merger will have no material tax consequences for AGRO or JWCFS.

Applicants' Legal Analysis

1. Section 57(a) generally prohibits, with certain exceptions, sales or purchases of securities or other property between a BDC and certain of its affiliated persons as described in section 57(b) of the Act, including a person controlling the BDC. JWCFS owns approximately 91 per cent of AGRO's shares and, thus, controls AGRO under section 2(a)(9) of the Act. Because the Merger may involve the purchase of the property of AGRO by JWCFS, applicants are requesting relief from section 57(a) to complete the Merger.

2. Section 57(c) of the Act provides that the SEC will exempt a proposed transaction from section 57(a) if 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; and the proposed transaction is consistent with the policy of the BDC concerned and with the general purposes of the Act. Applicants believe that the requested relief from section 57(a) meets these standards for the reasons discussed below.

3. Applicants state that the Board has determined that the Exchange Ratio is fair consideration for the minority shareholders of AGRO to receive in the Merger. Applicants state that a comparison of the closing sales price of JWCFS common stock on April 13, 1998 ($11^{15}/_{16}$) to AGRO's NAV of $3.46 on December 31, 1997 (the most recent date on which AGRO's Board determined AGRO's NAV) indicates that the Exchange Ratio would represent a premium to AGRO's minority shareholders of approximately 48.7%.

4. Applicants state that the Board also considered, in addition to other factors: that AGRO has never paid dividends on its common stock and has no plans to pay any dividends in the future; that there are no possible alternative transactions similar to the Merger with unaffiliated third parties; that, if the Merger is not consummated, it is unlikely that the minority shareholders of AGRO will realize any return on their holdings in the foreseeable future; that the Merger would provide AGRO's minority shareholders with a way of disposing of their shares and obtaining a return on their investment that would not otherwise be available; that following the Merger, AGRO's assets could be redirected into the existing business of JWCFS for the benefit of JWCFS shareholders (which would include all of AGRO's minority shareholders who do not choose to exercise appraisal rights under Maryland law to receive cash); and that the AGRO minority shareholders have available appraisal rights under Maryland law. In addition, the boards of directors of both AGRO and JWCFS have reserved the right to abandon the Merger at any time if the boards determine that it would not be in the best interests of the respective company to consummate the Merger.

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

[FR Doc. 98–11394 Filed 4–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23125; 812–11080]

Freedom Mutual Fund, et al.; Notice of Application

April 23, 1998.

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

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: The requested order would permit the implementation, without prior shareholder approval, of new investment advisory agreements, for a period of up to 150 days following the later of: (i) the date the assignment of the existing investment advisory agreements is deemed to have occurred, or (ii) the date the requested order is issued (but in no event later than October 31, 1998), and to permit the investment adviser to certain registered management investment companies to receive all fees earned under the new agreements during this interim period.

APPLICANTS: Freedom Mutual Fund (''Freedom Mutual''), on behalf of Freedom Cash Management Fund and Freedom Government Securities Fund (''Freedom Funds''), Freedom Group of Tax Exempt Funds (''Freedom Group''), on behalf of Freedom Tax Exempt Money Fund and Freedom California Tax Exempt Money Fund (''Group Funds''), FundManager Portfolios (together with Freedom Mutual and Freedom Group, ''Trusts''), on behalf of FundManager Aggressive Growth Portfolio, FundManager Growth Portfolio, FundManager Growth with Income Portfolio, FundManager Bond Portfolio, FundManager Managed Total Return Portfolio, FundManager International Portfolio (together with the Freedom Funds and the Group Funds, ''Funds''), and Freedom Capital Management Corporation (the ''Adviser'').

FILING DATES: The application was filed on March 20, 1998, and amended on April 14, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

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 May 14, 1998, 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 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, NW., Washington, DC 20549. Applicants, Freedom Capital Management Corporation, One Beacon Street, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser (202) 942–0562, or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

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, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Trusts are registered under the Act as open-end management investment companies. The Advisers, an investment adviser registered under the Investment Advisers Act of 1940, is an indirect wholly-owned subsidiary of Freedom Securities Corporation (the ''Parent''). The Adviser manages the Funds' assets under investment advisory agreements with the Trusts (the ''Existing Agreements''). Thomas H. Lee Equity Fund III, L.P., Thomas H. Lee Foreign Fund III, L.P., and THL–CCI, L.P. (the ''Thomas Lee Entities'') own more than 25% of the outstanding voting securities of the Parent.

2. The Parent currently is involved in a series of transactions which will result in its issuing a significant number of additional shares of its common stock, and pursuant to which the Thomas Lee Entities will be selling their shares of the Parent's common stock to the public. Upon the issuance of additional shares of the Parent's common stock pursuant to these transactions, the Thomas Lee Entities will own less than 25% of the outstanding voting securities of the Parent. In addition, a stockholder agreement between the Thomas Lee Entities and certain other shareholders of the Parent with respect to the exercise of certain shareholder voting rights held by the shareholders (the ''Stockholders Agreement'') is expected to terminate 45 days following the closing of the Parent's public offering of its common stock. As a result of the occurrence of these events, the Thomas Lee Entities may no longer be deemed to control the Parent, and an indirect change in control of the Adviser may be deemed to have occurred.

3. The indirect change in control of the Adviser will result in an assignment, and thus automatic termination, of the Existing Agreements. Applicants request an exemption to permit the Adviser and the Trusts to enter into new advisory agreements (''New Agreements'') without prior shareholder approval. The requested exemption would cover an interim period of not more than 150 days beginning on the later of (a) the earliest date on which either (i) the stock ownership of the Thomas Lee Entities in the parent falls below 25%, or (ii) the Stockholders Agreement terminates (either event, the ''Transaction''), or (b) the date on which the requested order is issued, and continuing with respect to each Fund through the date the New Agreements are approved or disapproved by the shareholders of the respective Funds (but in no event later than October 31, 1998) (the ''Interim Period''). The Transaction is expected to occur in May 1998.[1]

4. The Trusts' boards of trustees (the ''Boards'' or the ''Boards of Trustees''), including a majority of the Trustees who are not ''interested persons'' of the Trust (''Independent Trustees''), met on March 17, 1998, and voted unanimously to approve the preparation and filing of preliminary proxy materials for a special meeting of shareholders of each Fund to consider the New Agreements. The Boards also met in person on March 30, 1998, to consider and act upon the approval of the New Agreements in accordance with section 15(c) of the Act, and to evaluate whether the terms of the New Agreements are in the best interests of the Funds and their shareholders. The Trustees, including a majority of the Independent Trustees, unanimously approved the New Agreements, and recommended their approval to the shareholders of the Funds.

5. The fees payable to the Adviser during the Interim Period under the New Agreements will be paid into an interest-bearing escrow account with an unaffiliated bank. The escrow agent will release the amounts held in the escrow account (including interest earned on paid fees) to: (i) The Adviser if shareholders of the Funds approve the relevant New Agreement; or (ii) the relevant Fund, in the absence of approval by shareholders. Before amounts are released from the escrow accounts, the Boards will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 15(a) further requires that such written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines ''assignment'' to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Applicants state that, when the Transaction occurs, the Thomas Lee Entities may no longer be deemed to control the Parent, and an indirect change in control of the Adviser may be deemed to have occurred. The Transaction thus may be deemed to result in an assignment of the Existing Agreements within the meaning of section 2(a)(4) of the Act, and a termination of the Existing Agreements according to their terms.

3. Rule 15a–4 provides, in pertinent part, that if any investment advisory contract with an investment company is terminated by assignment, the adviser may continue to act as such for 120 days under a written contract that has not been approved by the investment company's shareholders, provided that: (a) The new contract is approved by the board of directors (including a majority of trustees that are not ''interested persons'' of the investment company); (b) the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most recently approved by shareholders of the investment company; and (c) neither the adviser nor any controlling person of the investment adviser ''directly or indirectly receives money or other benefit'' in connection with the assignment. Applicants state that they may not rely on rule 15a–4 because the Parent or the Thomas Lee Entities may be deemed to receive a benefit in connection with the Transaction.

4. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants believe that the requested relief satisfies this standard.

5. Applicants state that, without an exemption, there may not be an adequate period to obtain approval of the New Agreements by the shareholders of each Fund prior to the Transaction. Applicants state that they mailed proxy materials to shareholders on April 15, 1998, and April 16, 1998, and the requisite shareholder meetings to consider approval of the New Agreements are expected to be held on or about May 20, 1998.

[1] Applicants state that if the Transaction precedes the issuance of the requested order, the Adviser will continue to serve as investment adviser after the Transaction (and prior to the issuance of the order) in a manner consistent with its fiduciary duty to continue to provide advisory services to the Funds even though approval of the new arrangements has not yet been secured from the Funds' shareholders. Applicants also state that the Funds may be required to pay, with respect to the period until receipt of the order, no more than the actual out-of-pocket cost to the Adviser for providing advisory services.

6. Applicants state that, given the frequency of the failure of shareholders to return proxies, and the large number of beneficial owners of shares of the Funds, 150 days is necessary to obtain shareholder approval of the New Agreements. Applicants state that during the Interim Period, each Fund would operate under the New Agreements, which are substantially identical to the Existing Agreements, except for the effective dates, termination dates and the updated names of the Funds. Applicants also state that no changes are anticipated in the personnel providing investment management services to the Funds during the Interim Period. Applicants therefore submit that each Fund should receive, during the Interim Period, the same investment advisory services, provided in the same manner, at the same fee levels, and by substantially the same personnel as before the Transaction.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. The New Agreements will have the same terms and conditions as the Existing Agreements, except for the effective dates, termination dates, and the updated names of the Funds.

2. Fees earned by the Adviser in respect of the New Agreements during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account, (including interest earned on such paid fees), will be paid (a) to the Adviser, after the requisite approval of shareholders are obtained, or (b) to the respective Fund, in the absence of such approvals.

3. The Funds will hold meetings of shareholders to vote on approval of the New Agreements on or before the 150th day following the termination of the Existing Agreements (but in no event later than October 31, 1998).

4. The Advisor and/or Parent will bear the costs of preparing and filing the application and the costs relating to the solicitation of shareholder approval of the New Agreements.

5. The Adviser will take all appropriate steps to ensure that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the Boards, including a majority of the Independent Trustees, to the scope and quality of services previously provided under the Existing Agreements. If personnel providing material services during the Interim Period change materially, the Adviser will apprise and consult with the Board of the affected Funds to assure that they, including a majority of the Independent Trustees, are satisfied that the services provided will not be diminished in scope or quality.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11288 Filed 4–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act, Release No. 23124; 812–11022]

Nations Fund Trust, et al.; Notice of Application

April 22, 1998.

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

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit certain series of Nations Fund Trust (''NFT''), Nations Fund, Inc. (''NFI''), and Nations Institutional Reserves (''NIR'') to acquire all of the assets and liabilities of all of the series of Emerald Funds (''Emerald'').

APPLICANTS: NFT, NFI, NIR, NationsBanc Advisors, Inc. (''NBAI''), Emerald, and Barnett Capital Advisors, Inc. (''Barnett'').

FILING DATES: The application was filed on February 23, 1998. Applicants have agreed to file an amendment, the substance of which is included in this notice, 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 May 13, 1998 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 reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: NFT, NFI, NIR, and NBAI, One NationsBank Plaza, Charlotte, NC 28255; Emerald, 3435 Stelzer Road, Columbus, OH 43219; and Barnett, 9000 Southside Boulevard, Building 100, Jacksonville, FL 32256.

FOR FURTHER INFORMATION CONTACT: Rachel H. Graham, Senior Counsel, (202) 942–0583, or Christine Y. Greenlees, Branch Chief, (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, 450 Fifth Street, N.W., Washington, D.C. 20549 (telephone (202) 942–8090).

Applicants' Representations

1. Emerald, a Massachusetts business trust, is an open-end management investment company registered under the Act. Emerald currently offers shares in fourteen series (the ''Acquired Funds'').

2. NFT and NIR, each a Massachusetts business trust, and NFI, a Maryland corporation, are open-end management investment companies registered under the Act. Each company offers shares in certain series, some of which constitute the ''Acquiring Funds'' (together with the Acquired Funds, the ''Funds''). NFT offers shares in thirty-nine series, seven of which are Acquiring Funds. NFI offers shares in eight series, four of which are Acquiring Funds. NIR offers shares in four series, one of which is an Acquiring Fund. Each of NFI and NIR is organizing a new shell series, which also will be Acquiring Funds.[1]

3. Barnett is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is the investment adviser to the Acquired Funds. Barnett is a wholly-owned subsidiary of Barnett Bank, N.A., which, in turn, is a wholly-owned subsidiary of Barnett Banks, Inc. As of the date of the application, Barnett and its affiliates, all of which are part of a common control group (the ''Barnett Group''), held of record, in their name and in the names of their nominees, more than 25% of the outstanding voting shares of certain classes of shares of the Acquired Funds. All of these securities are held for the benefit of others in a trust, agency, custodial, or other fiduciary or representative capacity, except that Barnett Bank, N.A.

[1] Registration statements for the two shell Acquiring Funds were declared effective on April 6, 1998, and April 7, 1998. These funds are expected to commence operations upon the consummation of the Reorganizations (as defined below).