

Department of Health and Human Services

Confidential Assistant to the Executive Secretary to the Department of Health and Human Services. Effective June 26, 1998.

Department of Housing and Urban Development

Special Assistant to the Director, Intergovernmental Relations. Effective June 1, 1998.

Special Assistant to the Director, Executive Scheduling. Effective June 11, 1998.

Special Assistant to the Secretary's Representative. Effective June 11, 1998.

Special Assistant to the Assistant Secretary for Public Affairs. Effective June 12, 1998.

Secretary's Representative-Midwest to the Deputy Secretary, Office of the Secretary's Representative. Effective June 25, 1998.

Department of Justice

Assistant to the Attorney General. Effective June 4, 1998.

Confidential Assistant to the Assistant Attorney General, Criminal Division. Effective June 18, 1998.

Counsel to the Assistant Attorney General. Effective June 26, 1998.

Department of Labor

Chief of Staff to the Assistant Secretary for Employment and Training. Effective June 26, 1998.

Department of State

Staff Assistant to the Ambassador-at-Large for War Crimes Initiatives. Effective June 18, 1998.

Special Advisor to the Under Secretary for Economic, Business and Agricultural Affairs. Effective June 18, 1998.

Special Assistant to the Women's Coordinator. Effective June 18, 1998.

Department of Transportation

Special Assistant to the Director, Office of External Communications. Effective June 1, 1998.

Special Assistant to the Associate Deputy Secretary. Effective June 29, 1998.

Department of the Treasury

Special Assistant to the Assistant Secretary (Legislative Affairs and Public Liaison). Effective June 25, 1998.

Federal Labor Relations Authority

Director of External Affairs/Special Projects to the Chair, Federal Labor Relations Authority. Effective June 1, 1998.

National Aeronautics and Space Administration

Program Specialist to the Special Assistant to the Administrator. Effective June 25, 1998.

President's Commission on White House Fellowships

Special Assistant to the Director, President's Commission on White House Fellowships. Effective June 11, 1998.

Securities and Exchange Commission

Confidential Assistant to a Commissioner. Effective June 11, 1998.

Public Affairs Specialist to the Public Affairs Director, Office of Public Affairs, Policy Evaluation and Research. Effective June 11, 1998.

Writer-Editor to the Chairman. Effective June 11, 1998.

Selective Service System

Confidential Assistant to the Director, Selective Service System. Effective June 1, 1998.

Small Business Administration

Speech Writer to the Associate Administrator for Communications and Public Liaison. Effective June 18, 1998.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954-1958 Comp., P. 218. Office of Personnel Management.

Janice R. Lachance,
Director.

[FR Doc. 98-20733 Filed 8-3-98; 8:45 am]

BILLING CODE 6325-01-U

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23363; 812-11084]

The First Australia Fund, Inc.; Notice of Application

July 28, 1998

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

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 19(b) of the Act and rule 19b-1 under the Act.

SUMMARY OF APPLICATION: The First Australia Fund, Inc. (the "Fund"), a registered closed-end diversified management investment company, requests an order to permit it to make up to four distributions of net long-term capital gains in any one taxable year, so long as it maintains in effect a distribution policy with respect to its common stock calling for quarterly

distributions of an annually adjusted percentage of its net asset value ("NAV").

FILING DATES: The application was filed on March 19, 1998 and amended on May 29, 1998 and July 27, 1998.

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 August 21, 1998, 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 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. Fund, c/o Margaret A. Bancroft, Esq., Dechert Price & Rhoads, 30 Rockefeller Plaza, New York, NY 10112.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisor, at (202) 942-0569, 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 at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202-942-8090).

Applicant's Representations

1. The Fund is a closed-end diversified management investment company organized as a Maryland corporation and registered under the Act. The Fund's primary investment objective is long-term capital appreciation through investment primarily in equity securities of Australian companies listed on Australian stock exchanges. The Fund's shares are listed on the American Stock Exchange. The Fund's shares have traded at various times at a premium as well as at a discount to the NAV.

2. On December 12, 1997, the Fund instituted a distribution policy (the "Distribution Policy") that calls for regular quarterly distributions at an annual rate, set once a year by the Fund's board of directors (the "Board"), which is a percentage of the rolling average of the Fund's prior four quarter-end NAVs ("Rolling Distribution Rate").

The Fund states that, in adopting the Distribution Policy, the Board considered that the Distribution Policy provides a steady return to the Fund's shareholders and, during periods when its per share NAV is increasing, a means for the shareholders to receive, on a periodic basis, some of the appreciation in the value of their shares. The Board also considered empirical evidence that, in many cases, market discounts to NAVs have narrowed upon adoption of similar distribution policies by other closed-end funds. The Board has set the annualized Rolling Distribution Rate for fiscal year 1998 at 9%.

3. The Fund requests relief to permit it, so long as it maintains in effect the Distribution Policy, to make up to four capital gains distributions (as defined in section 852(b)(30)(C) of the Internal Revenue Code of 1986, as amended (the "Code")) in any one taxable year.

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 prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b-1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distributions, 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. The Fund asserts that the limitation on the number of net long-term capital gains distributions in rule 19b-1 prohibits the Fund from including available net long-term capital gains in certain of its fixed quarterly distributions. As a result, the Fund states that it must fund these quarterly distributions with returns of capital (to the extent net investment income and net realized short-term capital gains are insufficient to cover a quarterly distribution). The Fund further asserts that, in order to distribute all of its long-term capital gains within the limits permitted by rule 19b-1, the Fund may be required to make certain of its quarterly distributions in excess of the total annual amount called for by the Distribution Policy or retain and pay taxes on the excess amount. The Fund asserts that the application of rule 19b-1 to the Fund's Distribution Policy may create pressure on the investment

adviser to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. The Fund submits that the concerns underlying section 19(b) and rule 19b-1 are not present in the Fund's situation. One of the concerns leading to the adoption of section 19(b) and rule 19b-1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. The Fund states that its Distribution Policy has been fully and repeatedly described in the Fund's periodic communications to its shareholders. The Fund states that, in accordance with rule 19a-1 under the Act, a separate statement showing the source of the distribution accompanies each distribution (or the confirmation of reinvestment under the Fund's dividend reinvestment plan). In addition, a statement showing the amount and source of each quarterly distribution during the year is included with Fund's IRS Form 1099-DIV report sent to each shareholder who received distributions during the year (including shareholders who have sold shares during the year).

4. Another concern underlying section 19(b) and rule 19b-1 is that frequent capital gains distributions could facilitate improper distribution practices including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming dividend ("selling the dividend"), when the dividend results in an immediate corresponding reduction in NAV and is, in effect, a return of the investor's capital. The Fund submits that this concern does not arise with regard to closed-end management investment companies, such as the Fund, which do not continuously distribute their shares. Applicant further asserts that if the Fund makes a rights offering to its shareholders, the rights offering will be timed so that issuable upon exercise of the right will be issued only in the six week period immediately following the record date for the declaration of a dividend. Thus, the abuse of selling the dividend cannot occur as a matter of timing.

5. The Fund states that increased administrative costs also are a concern underlying section 19(b) and rule 19b-1. The Fund asserts, however, that it will continue to make quarterly distributions regardless of what portion of the distribution is composed of long-term capital gains.

6. Section 6(c) of the Act provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder 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. For the reasons stated above, the Fund believes that the requested relief satisfies this standard.

Applicant's Condition

The Fund agrees that the order granting the requested relief will terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by the Fund of its shares other than: (i) A rights offering with respect to the Fund's common stock to holders of the Fund's common stock, in which (a) shares are issued only within the six-week period immediately following the record date of a quarterly dividend, (b) the prospectus for the rights offering makes it clear that shareholders exercising the rights will not be entitled to receive such dividend, and (c) the Fund has not engaged in more than one rights offering during any given calendar year; or (ii) an offering in connection with a merger, consolidation, acquisition, spin-off or reorganization of the Fund; unless the Fund has received from the staff of the SEC written assurance that the order will remain in effect.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-20690 Filed 8-3-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23365; 812-10710]

MEMBERS Mutual Funds and CIMCO Inc.; Notice of Application July 29, 1998

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

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 and rule 18f-2 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit them to enter into and materially amend subadvisory contracts without obtaining shareholder approval.

APPLICANTS: MEMBERS Mutual Funds (the "Trust") and CIMCO Inc. (the "Manager").