officers, and employees pursuant to an executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed 20% of the outstanding voting securities of the BDC.

4. Applicant represents that the Plan, the stock options to be granted automatically to applicant's non-employee directors, and the stock options to be granted automatically to applicant's future non-employee directors pursuant to the Plan would meet the requirements of section 61(a): (a) the options would expire within ten years from the date of grant; (b) the exercise price of the options would be the current market value of applicant's common stock on the date of issuance; (c) the proposal to issue the options would be authorized by applicant's shareholders; (d) the options would not be transferable except for disposition by gift, will, or intestacy; (e) applicant does not have an investment adviser; and (f) applicant does not have a profit-sharing plan as described in section 57(n) of the Act. In addition, the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance would not exceed 20% of the outstanding voting securities of applicant.

5. Applicant represents that its directors are actively involved in the oversight of applicant's affairs, and that applicant relies on the judgment and experience of its directors. Applicant's directors have experience in many of the industries in which applicant's investee companies operate. The directors' backgrounds enhance applicant's ability to review and evaluate its investee companies and their performance. Applicant states that in order to attract and retain qualified personnel, it must provide non-employee directors with incentives in the form of an executive compensation program, as contemplated by section 61(a) of the Act.

6. Applicant submits that the terms of the Plan and the stock options to be granted automatically to applicant's non-employee directors are fair and reasonable and do not involve any overreaching of applicant or its shareholders. Options granted to purchase 6,000, 12,000, or 18,000 shares of applicant's common stock would currently represent only .07%, .13%, and .20%, respectively, of applicant's outstanding common stock. Given these relatively small amounts of stock, applicant submits that the exercise of the options would not, absent extraordinary circumstances, have a substantial dilutive effect on the net asset value of applicant's common stock.

7. Applicant asserts that because the stock options granted to a non-employee director would not vest until after the first anniversary of the date of grant, the Plan would provide non-employee directors with incentives to remain directors of applicant. In addition, applicant contends that because the options granted pursuant to the Plan have no value unless the price of applicant's common stock exceeds the exercise price of the option, the options provide significant incentives for its non-employee directors to devote their best efforts to the success of applicant's business. Applicant also represents that the options provide a means for the directors to increase their ownership interests in applicant, thereby helping to ensure close identification of their interests with those of applicant and its shareholders. Applicant contends that incentives in the form of stock options enable it to maintain continuity in the membership of its board of directors and to attract and retain as directors the highly experienced, successful, and dedicated business and professional people that are critical to applicant's success as a BDC and to the success of its investee companies.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–30764 Filed 12–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC. 21592; File No. 812–9236]

Variable Insurance Funds, et al.

December 12, 1995.

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

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

APPLICANTS: Variable Insurance Funds (the ''Trust''), The Winsbury Company (''Winsbury'') and Qualivest Capital Management, Inc. (''Qualivest'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from 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 to permit shares of each existing and future series of the Trust and shares of any other investment company that is designed to fund insurance products and for which Winsbury, or any of its affiliates, may serve as principal underwriter and administrator (collectively with the Trust, ''Funds'') to be sold to and held by variable annuity and variable life separate accounts of both affiliated and unaffiliated life insurance companies.

FILING DATE: The application was filed on September 21, 1994 and amended on May 9, 1995.

HEARING AND NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on January 8, 1996, 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 writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of the hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: The Trust and Winsbury, 1900 East Dublin-Granville Road, Columbus, Ohio 34229; Qualivest, 111 S.W. Fifth Avenue, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, or Wendy Finck Friedlander, Deputy Chief, on (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Trust, an open-end management investment company organized as a Massachusetts business trust, currently consists of four series, each with its own investment objective and policies. Additional series may be established in the future.

2. Winsbury, a registered broker-dealer and member of the National Association of Securities Dealers, Inc., serves as the administrator and the principal underwriter of the Trust, Winsbury is a division of BISYS Group, Inc.

3. Qualivest serves as the investment adviser of each existing series of the Trust. Qualivest is an affiliate of United States National Bank of Oregon, which is a wholly owned subsidiary of U.S. Bancorp.

4. Shares of each series of the Trust will be offered initially only to one separate account to serve as the investment vehicle for variable annuity contracts issued by one life insurance company (the ''Company''). The Trust intends, however, to offer shares of its existing and future series to separate accounts of other insurance companies, including insurance companies that are not affiliated with the Company (together with the Company, the ''participating insurance companies''), to serve as the investment vehicle for variable annuity contracts, scheduled premium variable life insurance contracts and flexible premium variable life insurance contracts (collectively, ''variable contracts'').

Applicants' Legal Analysis

1. In connection with scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted to a separate account (and any investment adviser, principal underwriter and depositor thereof) by Rule 6e–2(b)(15), however, are not available with respect to a scheduled premium variable life insurance separate account that owns shares of an investment company that also offers its shares to a variable annuity separate account of the same or of any affiliated or unaffiliated insurance company (''mixed funding''). In addition, the relief granted by Rule 6e–2(b) (15) is not available if shares of the underlying investment company are offered to variable annuity or variable life insurance separate accounts of unaffiliated insurance companies (''shared funding''). Accordingly, Applicants seek an order exempting scheduled premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such an account) from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rule 6e–2(b)(15) thereunder, to the extent necessary to permit shares of the Funds to be offered and sold in connection with both mixed funding and shared funding.

2. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted to a separate account (and to any investment adviser, principal underwriter and depositor thereof) by Rule 6e–3(T)(b)(15) permit mixed funding of flexible premium variable life insurance but preclude shared funding. Accordingly, Applicants seek an order exempting flexible premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such an account) from Section 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rule 6e–3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Funds to be offered and sold to separate accounts in connection with shared funding.

3. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a) (1) or (2). However, Rule 6e–2(b)(15)(i) and (ii) and Rule 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitation discussion above on mixed and shared funding. These exemptions limit the disqualification to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company. Applicants state that the exemptions contained in Rules 6e–2(b)(15) and 6e–(T)(b)(15) recognized that it is unnecessary to apply Section 9(a) to the many individuals in an insurance complex, most of whom will have no connection with the investment company funding the separate account. Applicants believe that it is unnecessary to limit the applicability of the rules merely because shares of the Funds may be sold in connection with mixed and shared funding. Therefore, Applicants assert that applying the restrictions of Section 9(a) serve no regulatory purpose.

4. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide partial exemptions from Sections 13(a), 15(a), and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require ''pass-through'' voting with respect to management investment company shares held by a separate account, to permit the insurance company to disregard the voting instructions of its contractowners in certain limited circumstances when required to do so by an insurance regulatory authority. Paragraph (b)(15) of both Rules 6e–2 and 6e–3(T) provides that the insurance company may disregard voting instructions if its contractowners initiate any change in such company's investment policies, principal underwriter or any investment adviser, provided that disregarding such voting instructions is reasonable and subject to certain other provisions in the rules. However, a particular insurer's disregard of voting instructions could conflict with the majority of contractowner voting instructions. Applicants state that if a particular insurance company's disregard of voting instructions conflicted with a majority of the contractowners' voting instructions, or precluded a majority vote, the insurer may be required, at a Fund's election, to withdraw its separate account's investment in the Fund, and no charge or penalty would be imposed as a result of such withdrawal.

5. Applicants assert that shared funding by unaffiliated insurance companies does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. In this regard, Applicants state that a particular state insurance regulatory body could require action that is inconsistent with the requirements of other states in which the insurance company offers its policies. Accordingly, Applicants submit that the fact that different insurers may be domiciled in different states does not create a significantly different or enlarged problem.

6. Applicants argue that mixed funding and shared funding should benefit variable contractowners by: (1) Eliminating a significant portion of the costs of establishing and administering separate funds; (2) allowing for a greater amount of assets available for investment by a fund, thereby promoting economies of scale, permitting greater safety through greater diversification, and/or making the addition of new series more feasible; and (3) encouraging more insurance companies to offer variable contracts, resulting in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation and lower charges. Each Fund will be managed to attempt to achieve its investment objectives and not to favor or disfavor any particular participating insurer or type of insurance product. Applicants see no significant legal

impediment to permitting mixed and shared funding. According to Applicants, separate accounts organized as unit investment trusts have historically been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Finally, Applicants represent that they believe that mixed and shared funding will have no adverse federal income tax consequences.

Applicants' Conditions

Applicants consent to the following conditions if an order is granted:

1. A majority of the Board of Trustees or Board of Directors (''Board'') of each Fund shall consist of persons who are not ''interested persons'' of the Fund, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or director, then the operation of this condition shall be suspended: (i) For a period of 45 days if the vacancy or vacancies may be filled by the Board; (ii) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor the Fund for the existence of any material irreconcilable conflict between the interests of the contractowners of all separate accounts investing in the Fund. A material irreconcilable conflict may arise for a variety of reasons, including: (i) An action by any state insurance regulatory authority; (ii) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (iii) an administrative or judicial decision in any relevant proceeding; (iv) the manner in which the investments of any Fund or series are being managed; (v) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners; or (vi) a decision by an insurer to disregard the voting instructions of contractowners.

3. Participating insurance companies, Winsbury and any other investment adviser of a Fund or series will report any potential or existing conflicts to the Board. Participating insurance companies, Winsbury, and the investment adviser(s) will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contractowner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all insurers investing in a Fund under their agreements governing participation in a Fund and such agreements shall provide that such responsibilities will be carried out with a view only to the interests of the contractowners.

4. If it is determined by a majority of the Board, or a majority of its disinterested trustees or directors, that a material irreconcilable conflict exists, the relevant participating insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the distinguished trustees or directors), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, up to and including: (i) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or any series thereof and reinvesting such assets in a different investment medium (including another series, if any, of the Fund) or submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contractowners, life insurance contractowners, or variable contractowners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (ii) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the Fund's election, to withdraw its separate account's investment in the Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund and these responsibilities will be carried out with a view only to the interests of the contractowners.

For the purposes of this condition (4), a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the Fund be required to establish a new funding medium for any variable contract. No participating insurance company shall be required by this condition (4) to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of contractowners materially adversely affected by the material irreconcilable conflict.

5. The Board's determination of the existence of a material irreconcilable conflict and its implications shall be made known promptly in writing to all participating insurance companies.

6. Participating insurance companies will provide pass-through voting privileges to all variable contractowners for so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable contractowners. Accordingly, participating insurance companies will vote shares of each Fund or series thereof held in their separate accounts in a manner consistent with timely voting instructions received from contractowners. Each participating insurance company also will vote shares of each Fund or series held in its separate accounts for which no timely voting instructions are received, as well as shares it owns, in the same proportion as those shares for which voting instructions are received. Participating insurance companies shall be responsible for assuring that each of their separate accounts participating in a Fund calculates voting privileges in a manner consistent with other participating insurance companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in a Fund shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund.

7. A Fund will notify all participating insurance companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund shall disclose in every prospectus that (1) shares of the Fund are offered to insurance company separate accounts which fund both annuity and life

insurance contracts, (2) due to differences of tax treatment or other considerations, the interests of various contractowners participating in the Fund might at some time be in conflict, and (3) the Board will monitor for any material conflicts and determine what action, if any, should be taken.

8. All reports received by the Board of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying participating insurance companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. If and to the extent Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this application, then each Fund and/or the participating insurance companies, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

10. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Fund), and in particular the Fund will either provide for annual meetings (except insofar as the Commission may interpret Section 16 not to require such meetings) or comply with Section 16(c) of the 1940 Act (although the Trust is not one of the trusts described in Section 16(c) of the 1940 Act) as well as with Sections 16(a) and, if and when applicable, 16(b). Further, the Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

11. The participating insurance companies, Winsbury, and/or any other investment adviser to a Fund or series, shall at least annually submit to the Fund's Board such reports, materials or data as the Board may reasonably request so that it may fully carry out the obligations imposed upon it by the conditions contained in the application and said reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the participating insurance companies to provide these reports, materials and data to the Board when it so reasonably requests, shall be a contractual obligation of all participating insurance companies under their agreements governing participation in each Fund.

Conclusion

For the reasons and upon the facts stated above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–30708 Filed 12–18–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Order of the United States District Court for the Northern District of Texas, Dallas Division, dated November 3, 1995, the United States Small Business Administration hereby revokes the license of Diversified Capital Funding Corporation, a Texas corporation, to function as a small business investment company under the Small Business Investment Company License No.06/10–0125 issued to Diversified Capital Funding Corporation on September 27, 1962 and said license is hereby declared null and void as of December 13, 1995.

Small Business Administration.

Dated: December 11, 1995.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 95–30758 Filed 12–18–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2301]

Advisory Committee on International Communications and Information Policy; Public Meeting

The Department of State is holding the third meeting of its advisory Committee on International Communications and Information Policy. The Committee was reestablished on August 11, 1994, in order to provide a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

The 24-person committee was appointed by Ambassador Vonya B. McCann, United States Coordinator for International Communications and Information Policy, U.S. Department of State, and serves under the Chairmanship of Ed Black, President, Computer & Communications Industry Association.

The purpose of this meeting will be to follow up on the recent creation of working groups on various issues that will help chart the future direction and work plan of the committee. The members will look at the substantive issues on which the committee should focus, as well as specific countries and regions of interest to the committee.

The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with the FACA Section 10(d), 5 U.S.C. 552b(c) (1) and (4) that a meeting or a portion of the meeting should be closed to the public.

This meeting will be held on Thursday, January 18, 1996, from 9:30 a.m.–12:00 noon in Room 1912 of the Main Building of the U.S. Department of State, located at 2201 ''C'' Street, NW., Washington, DC 20520. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, and date of birth to Sylvia Conley at (202) 647–5233 or by fax at (202) 647–5957. All attendees must use the ''C'' Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

For further information, contact the Executive Secretary of the committee, at (202) 647–5385.