FILING DATE: The application was filed on November 16, 1995 and amended on November 24, 1995.

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 January 8, 1996, 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, NW., Washington, DC 20549. Applicant, 24 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, 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.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust. On February 28, 1986, applicant registered under the Act as an investment company. On March 5, 1986, applicant filed a registration statement under the Securities Act of 1933 registering an indefinite number of shares. The registration statement became effective on August 1, 1986, and applicant's initial public offering commenced soon thereafter. Applicant consists of two series, EV Classic High Income Fund (''Classic High Income'') and EV Marathon High Income Fund (''Marathon High Income'') (collectively the ''Funds''). Applicant is a feeder fund in a master/feeder structure and therefore has no investment adviser.

2. On June 19, 1995, applicant's Board of Trustees, including a majority of Trustees who were not interested persons of applicant, approved an Agreement and Plan of Reorganization for each Fund whereby applicant would transfer all of the assets and liabilities of Classic High Income and Marathon High Income to a corresponding new series of Eaton Vance Mutual Funds Trust (the ''Trust''). These new series are EV Classic High Income Fund and EV Marathon High Income Fund (together, the ''Successor Funds''). In exchange, each Fund would receive shares of beneficial interest of each Successor Fund with an aggregate net asset value equal to the net asset value of each Fund's assets and liabilities transferred. Pursuant to rule 17a–8, applicant's Board of Trustees determined that such reorganization would be in the best interests of applicant and that the interests of existing shareholders of the Funds would not be diluted as a result of the reorganization.[1] No shareholder approval was required by the Declarations of Trust of applicant or the Trust, or by applicable law.

3. On July 31, 1995, applicant transferred all of the assets and liabilities of the Funds to their corresponding Successor Funds. Shareholders in the Funds received shares of beneficial interest of each Successor Fund equal in value to their shares in a Fund in complete liquidation and dissolution of applicant. No brokerage commissions were paid as a result of the exchange.

4. Each Fund and each Successor Fund assumed its own expenses in connection with the reorganization. Such expenses included, but were not limited to, legal fees, registration fees and printing expenses.

5. At the time of the filing of the application, applicant had no assets or liabilities, was not a party to any litigation or administration proceeding, and had no shareholders. Applicant is neither engaged, nor does it propose to engaged, in any business activities other than those necessary for the winding-up of its affairs.

6. On July 31, 1995, applicant dissolved as a Massachusetts business trust.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 95–30860 Filed 12–19–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers. Applicant and the Trust may be deemed to be affiliated persons of each other solely by reason of having common trustees and officers, and therefore may rely on the rule.

[Rel. No. IC–21601; 812–9828]

Mutual Fund Group, et al.; Notice of Application

December 14, 1995.

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

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

APPLICANTS: Mutual Fund Group, Mutual Fund Trust, Mutual Fund Variable Annuity Trust, Vista Global Fixed Income Portfolio, Vista Growth and Income Portfolio, Vista International Equity Portfolio, Vista Capital Growth Portfolio (collectively, the ''Investment Companies''), and the Chase Manhattan Bank, N.A, or its successor entity subsequent to its merger into Chemical Bank [1] (the ''Adviser'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1), and under section 17(d) of the Act and rule 17d–1 thereunder to permit certain joint arrangements.

SUMMARY OF APPLICATION: Applicants request an order that would permit each applicant investment company to enter into deferred compensation arrangements with its trustees who are not employees of its affiliated persons.

FILING DATES: The application was filed on October 23, 1995, and amended on December 7, 1995.

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 January 8, 1996, 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.

[1] Chase Manhattan Corporation has announced that it plans to enter into a reorganization with Chemical Banking Corporation pursuant to which Chemical Banking Corporation will be the surviving corporation. This merger is expected to be completed on or about April 1, 1996. Subsequent to this merger it is expected that the Chase Manhattan Bank will be merged into Chemical Bank, with Chemical Bank as the surviving bank, assuming the investment management of the Investment Companies.

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. Applicants, the Investment Companies, Vista Service Center, P.O. Box 419392, Kansas City, Missouri 64141–6392, and the Adviser, One Chase Manhattan Plaza, New York, New York 10081.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, 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.

Applicants' Representations

1. Mutual Fund Group, Mutual Fund Trust, Mutual Fund Variable Annuity Trust, Vista Global Fixed Income Portfolio, Vista Growth and Income Portfolio, Vista International Equity Portfolio and Vista Capital Growth Portfolio are diversified open-end management investment companies that currently consist of 32 separate portfolios. The Adviser serves as the investment adviser for the Investment Companies and Vista Broker-Dealer Services, Inc. services as their distributor.

2. Applicants request that relief be extended to any other registered open-end investment company established or acquired in the future, or series thereof, (including any successors in interest [2]) advised by the Adviser (together with the Investment Companies, the ''Funds'').

3. Each Investment Company has a board of trustees, a majority of the members of which are not ''interested persons'' of such Investment Company within the meaning of section 2(a)(19) of the Act. Each of the trustees who is not as employee of the Adviser, the Investment Companies' administrator or distributor, or any of their affiliates (''Eligible Trustees'') receives annual fees which collectively are, and are expected to continue to be, insignificant in comparison to the total net assets of the Investment Companies. Applicants request an order to permit the Eligible Trustees to elect to defer receipt of all or a portion of their fees pursuant to a deferred compensation plan (the ''Plan'') and related election agreement entered into between each Eligible Trustee and the appropriate Fund. Under the Plan, the Eligible Trustees could defer payment of trustees' fees (the ''Deferred Fees'') in order to defer payment of income taxes or for other reasons.

4. Under the Plan, the deferred fees payable by a Fund to a participating Eligible Trustee will be credited to a book reserve account established by the Fund (a ''Deferral Account''), as of the first business day following the date such fees would have been paid to the Eligible Trustee. The trustee may select one or more investment portfolios from a list of available Investment Companies that will be used to measure the hypothetical investment performance of the trustee's Deferral Account. The value of a Deferral Account will be equal to the value such account would have had if the amount credited to it had been invested and reinvested in shares of the investment portfolios designated by the trustee (the ''Designated Shares'').

5. Each Investment Company intends generally to purchase and maintain Designated Shares in an amount equal to the deemed investments of the Deferred Accounts of its trustees. Any participating money market series of a Fund that values its assets by the amortized cost method will buy and hold the Designated Shares that determine the performance of the Deferral Accounts in order to achieve an exact match between such series' liability to pay deferred fees and the assets that offset such liability. The accrued liability of each Investment Company for the compensation deferrals will fluctuate with changes in the value of the Designated Shares. The Investment Company will not, however, experience any economic effect from the fluctuating liability because it will own Designated Shares purchased with money that otherwise would have been paid to the Eligible Trustee. Changes in the amount of the liability will be exactly matched by changes in the value of the Designated Shares.

6. The Funds' respective obligations to make payments of amounts accrued under the Plan will be general unsecured obligations, payable solely from their respective general assets and property. The Plan provides that the Funds will be under no obligation to purchase, hold or dispose of any investments under the Plan, but, if one or more of the Funds choose to purchase investments to cover their obligations under the Plan, then any and all such investments will continue to be a part of the respective general assets and property of such Funds.

7. Payment to Eligible Trustees will be made in a lump sum or in generally equal annual installments over a period of no more than 10 years as selected by the Eligible Trustee at the time of deferral. In the event of death, amounts payable to the Eligible Trustee under the Plan will become payable to a beneficiary designated by the Eligible Trustee. In all other events, the Eligible Trustee's right to receive payments is non-transferable.

8. The Plan was adopted prior to receipt of the requested relief. Pending receipt of SEC approval, the Plan provides that the compensation deferred by an Eligible Trustee will be credited to a Deferral Account in the form of cash and credited with an amount equal to the yield on 90 day U.S. Treasury Bills.[3]

Applicants' Legal Analysis

1. Applicants request an order which would exempt the Funds: (a) under section 6(c) of the Act from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 thereunder, to the extent necessary to permit the Funds to adopt and implement the Plan; (b) under sections 6(c) and 17(b) of the Act from section 17(a)(1) to permit the Funds to sell securities for which they are the issuer to participating Funds in connection with the Plan; and (c) under section 17(d) of the Act and rule 17d–1 thereunder to permit the Funds to effect certain joint transactions incident to the Plan.

2. Section 18(f)(1) generally prohibits a registered open-end investment company from issuing senior securities. Section 13(a)(2) requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Applicants state that the Plan possesses none of the characteristics of senior securities that led Congress to enact section 18(f)(1). The Plan would not: (a) Induce speculative investments or provide opportunities for manipulative allocation of any Fund's expenses or profits; (b) affect control of any Fund; or (c) confuse investors or convey a false impression as to the safety of their investments. All liabilities created under the Plan would be offset by equal amounts of assets that would not otherwise exist if the fees were paid on a current basis.

3. Section 22(f) prohibits undisclosed restrictions on transferability or negotiability of redeemable securities

[2] ''Successors in interest'' is herein limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[3] *See, e.g.,* American Balanced Fund, Inc. (pub. avail. Feb. 13, 1984) (no-action assurances given for deferred compensation plan in which the value of the deferred amounts did not depend upon the investment company's performance).

issued by open-end investment companies. Applicants state that such restrictions are set forth in the Plan, which would be included primarily to benefit the Eligible Trustees and would not adversely affect the interests of the trustees or of any shareholder.

4. Section 22(g) prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. This provision prevents the dilution of equity and voting power that may result when securities are issued for consideration that is not readily valued. Applicants believe that the Plan would merely provide for deferral of payment of such fees and thus should be viewed as being issued not in return for services but in return for a Fund not being required to pay such fees on a current basis.

5. Section 13(a)(3) provides that no registered investment company shall, unless authorized by the vote of a majority of its outstanding voting securities, deviate from any investment policy that is changeable only if authorized by shareholder vote. The relief requested from section 13(a)(3) would extend only to existing Investment Companies. Applicants believe that relief from section 13(a)(3) is appropriate to enable the affected Investment Companies to invest in Designated Shares without a shareholder vote. Applicants will provide notice to shareholders in the prospectus of each affected Investment Company of the Deferred Fees under the Plan. The value of the Designated Shares will be *de minimis* in relation to the total net assets of the respective Investment Company, and will at all times equal the value of the Investment Company's obligations to pay deferred fees.

6. Rule 2a–7 imposes certain restrictions on the investments of ''money market funds,'' as defined under the rule, that would prohibit a Fund that is a money market Fund from investing in the shares of any other Fund. Applicants believe that the requested exemption would permit the Funds to achieve an exact matching of Designated Shares with the deemed investments of the Deferral Accounts, thereby ensuring that the deferred fees would not affect net asset value.

7. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the relief requested from the above provisions satisfies this standard.

8. Section 17(a)(1) generally prohibits an affiliated person, or an affiliated person of an affiliated person, of a registered investment company from selling any security to such registered investment company. The Adviser is an affiliated person of each of the Fund's portfolios pursuant to section 2(a)(3)(E) of the Act. Each portfolio may be treated as an affiliated person of each other portfolio by reason of being under the common control of the Adviser.[4] The sale by a portfolio of any security to any other portfolio of any Fund would therefore be subject to the prohibitions of section 17(a)(1). Applicants assert that section 17(a)(1) was designed to prevent, among other things, sponsors of investment companies from using investment company assets as capital for enterprises with which they were associated or to acquire controlling interest in such enterprises. Applicants submit that the sale of securities issued by the Funds pursuant to the Plan does not implicate the concerns of Congress in enacting this section, but merely would facilitate the matching of each Fund's liability for deferred trustees' fees with the Designated Shares that would determine the amount of such Fund's liability.

9. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 217(a) if evidence establishes that 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, the transaction is consistent with the policies of the registered investment company, and the general purposes of the Act. Applicants assert that the proposed transaction satisfies the criteria of section 17(b). The finding that the terms of the transaction are consistent with the policies of the registered investment company is predicated on the assumption that relief is granted from section 13(a)(3). Applicants also request relief from section 17(a)(1) under section 6(c) to the extent necessary to implement the Deferred Fees under the Plan on an ongoing basis.[5]

10. Section 17(d) and rule 17d–1 generally prohibit a registered investment company's joint or joint and several participation with an affiliated person in a transaction in connection with any joint enterprise or other joint arrangement or profit-sharing plan ''on a basis different from or less advantageous than that of'' the affiliated person. Eligible Trustees will not receive a benefit, directly or indirectly, that would otherwise inure to a Fund or its shareholders. Eligible Trustees will receive tax deferral but the Plan otherwise will maintain the parties, viewed both separately and in their relationship to one another, in the same position as if the deferred fees were paid on a current basis. When all payments have been made to a Eligible Trustee, the Eligible Trustee will be no better off, relative to the Funds, than if he or she had received trustee fees on a current basis and invested them in Designated Shares.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. With respect to the relief requested from rule 2a–7, any money market Fund that values its assets by the amortized cost method will buy and hold Designated Shares that determine the value of Deferral Accounts to achieve an exact match between the liability of any such Fund to pay compensation deferrals and the assets that offset that liability.

2. If a Fund purchases Designated Shares issued by an affiliated Fund, the Fund will vote such shares in proportion to the votes of all other shareholders of such affiliated Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–30908 Filed 12–19–95; 8:45 am]

BILLING CODE 8010–01–M

[4] Section 2(a)(3)(C) of the Act defines the term ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with such other person.

[5] Section 17(b) may permit only a single transaction, rather than a series of on-going transactions, to be exempted from section 17(a). *See Keystone Custodian Funds, Inc.*, 21 S.E.C. 295 (1945).

[Rel. No. IC–21598; 812–9762]

The One Hundred Fund, Inc., et al.; Notice of Application

December 13, 1995.

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

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

APPLICANTS: The One Hundred Fund, Inc., dba Berger 100 Fund (the ''100 Fund''), Berger One Hundred and One