received by the SEC by 5:30 p.m. on January 29, 1996, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 100 Renaissance Center, 26th Floor, Detroit Michigan 48243.

**FOR FURTHER INFORMATION CONTACT:** Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, 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 from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a registered open-end investment company, organized as a Massachusetts business trust, was sponsored by its distributor, First of Michigan Corporation (''FoM''), to serve as a money market investment vehicle for its brokerage customers. On December 29, 1981, applicant filed a Notification of Registration on Form N–8A and a registration statement on Form N–1 pursuant to section 8(b) of the Act and the Securities Act of 1933. The registration statement was declared effective on May 28, 1982 and applicant commenced its initial public offering shortly thereafter. Applicant consists of two portfolios: Renaissance Money Market Fund and Renaissance Government Fund.

2. On or about January 27, 1996, FoM sent a letter to each of its customers which held shares in applicant (such customers constituted all of applicant's shareholder) advising them that FoM had decided to replace applicant with a newly formed money market fund known as ''Cranbook Funds,'' consisting of two portfolios with investment objectives similar to applicant's portfolios. The letter contained a prospectus of Cranbook Funds and informed each shareholder that, unless such shareholder specifically requested otherwise, all of such shareholder's balances invested in applicant would be transferred to Cranbrook Funds, effective February 28, 1995 (the ''Closing Date''). One of applicant's shareholders made such a request and FoM arranged for that shareholder's shares to be redeemed in cash on or prior to the Closing Date.

3. On February 16, 1995, applicant's board of directors adopted resolutions effecting the merger between Cranbrook Funds and applicant. No proxy material was distributed in connection with the merger. Pursuant to the resolutions, on the Closing Date, applicant transferred all of its assets to Cranbrook Funds, Cranbook Funds assumed all of applicant's liabilities, and Cranbrook Funds issued to applicant shares of beneficial interest in Cranbrook Funds having an aggregate net asset value equal to the net asset value of the assets transferred from applicant. Thereafter, on the Closing Date, applicant redeemed all of its outstanding shares by distributing all of its assets (consisting solely of shares in Cranbrook Funds) in kind to applicant's shareholders.

4. Applicant's portfolio securities were valued using the amortized cost method. No brokerage commissions were paid. As of the Closing Date, Renaissance Money Market Fund had 346,675,648.07 shares of beneficial interest outstanding with an aggregate and per share net asset value of $346,675,648.07 and $1.00, respectively. Renaissance Government Fund had 47,161,519 shares of beneficial interest outstanding with an aggregate and per share net asset value of $47,161,519 and $1.00, respectively.

5. Applicant incurred certain expenses, consisting primarily of legal fees and accounting fees in connection with the merger. Such expenses were paid by Cranbrook Funds' investment adviser, Cranbrook Capital Management, Inc. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

6. Applicant terminated its existence as a Massachusetts business trust on June 19, 1995.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–361 Filed 1–9–96; 8:45 am]

**BILLING CODE 8010–01–M**

**[Rel. No. IC–21650; File No. 812–9764]**

## The One Group Investment Trust

January 3, 1996.

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

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

**APPLICANT:** The One Group Investment Trust (''Trust'').

**RELEVANT 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:** Applicant seeks an order granting exemptions to the extent necessary to permit shares of the Trust and all future open-end investment companies for which Banc One Investment Advisors Corporation (''Advisor''), or any affiliate thereof, serves as manager, principal underwriter, or sponsor and whose shares are sold to separate accounts of insurance companies and qualified pension and retirement plans (the ''Future Funds'') (the Trust and the Future Funds collectively are referred to as the ''Fund(s)'') to be sold to and held by (i) variable annuity and variable life insurance company separate accounts of both affiliated and unaffiliated life insurance companies (''Participating Insurance Companies'') and (ii) qualified pension and retirement plans (''Plans'') outside the separate account context.

**FILING DATE:** The application was filed on September 14, 1995 and will be amended 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 Secretary of the SEC 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 29, 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 who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

**ADDRESSES:** SEC, Secretary, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, Michael V. Wible, Esq., Banc One Corporation, 100 E. Broad Street, Columbus, OH 43271–0158.

**FOR FURTHER INFORMATION CONTACT:** Edward P. Macdonald, Staff Attorney, or Wendy Friedlander, Deputy Chief (Office of Insurance Products), Division of Investment Management, at (202) 942–0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the SEC.

Applicant's Representations

1. The Trust, a Massachusetts business trust organized on June 7, 1993, is registered under the 1940 Act as an open-end diversified management investment company. The Trust currently consists of four Portfolios. The Board of Trustees may establish additional Portfolios at any time, each with its own investment objective and policies (''Future Investment Portfolios'').

2. Advisor, a registered investment adviser under the Investment Advisors Act of 1940, serves as investment adviser to the Trust and will serve as investment adviser to the Funds. Advisor is an indirect, wholly-owned subsidiary of BANC ONE CORPORATION, an interstate bank holding company incorporated in the State of Ohio. Nationwide Financial Services, Inc. a wholly-owned subsidiary of Nationwide Life Insurance Company, will serve as administrator of each Fund.

3. Shares of the Trust currently are offered only to Nationwide VA Separate Account-C, a separate account of Nationwide Life and Annuity Insurance Company (''Nationwide''), to fund the benefits of the One$_R$ Investors Annuity$^{SM}$, a variable annuity contract issued by Nationwide. It is intended, however, that shares of the Funds will be offered to separate accounts of other insurance companies, including insurance companies that are not affiliated with Nationwide.

4. Applicant states that, upon the granting of the order requested in the application, the Funds intend to offer shares of their existing Portfolios and Future Investment Portfolios to separate accounts of Participating Insurance Companies the (''Separate Accounts'') to serve as the investment vehicle for various types of insurance products, which may include variable annuity contracts, single premium variable life insurance contracts, scheduled premium variable life insurance contracts, and flexible premium variable life insurance contracts. The funds also may be used as investment vehicles for Plans.

Applicant's Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust (''UIT''), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The relief provided by Rule 6e–2 is available to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available only where the management investment company underlying the UIT (''Underlying Fund'') offers its shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is referred to as ''mixed funding.''

2. In addition, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium life insurance separate account that owns shares of an Underlying Fund that also offers its shares to separate accounts funding variable contracts to one or more unaffiliated life insurance companies. The use of a common management investment company as the underlying investment medium for variable annuity and variable life insurance separate accounts of unaffiliated insurance companies is referred to as ''shared funding.''

3. Applicant notes that the relief under Rule 6e–2(b)(15) is available only where shares are offered exclusively to separate accounts, and that additional exemptive relief is necessary if shares of the Funds also are to be sold to Plans.

4. In connection with the funding of flexible premium variable life insurance contracts issued through a UIT, 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 relief provided by Rule 6e–3(T)(b)(15) also is available to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–3(T) are available only where the Separate Account's Underlying Fund offers its shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company. * * *'' Therefore, Rule 6e–3(T) permits mixed funding with respect to a flexible premium variable life insurance separate account, subject to certain conditions. However, Rule 6e–3(T) does not permit shared funding because the relief granted by Rule 6e–3(T)(b)(15) is not available with respect to a flexible premium variable life insurance separate account that owns shares of a management company that also offers its shares to separate accounts (including variable annuity and flexible premium and scheduled premium variable life insurance separate accounts) of unaffiliated life insurance companies.

5. Applicant notes that the relief under Rule 6e–3(T) is available only where shares of an Underlying Fund are offered exclusively to separate accounts, and that additional relief is necessary if shares of the Funds also are to be sold to Plans.

6. Applicant states that changes in the tax law have created the opportunity for each Fund to increase its asset base through the sale of shares of the Fund to Plans. Applicant states that Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards on the underlying assets of the contracts held in the Funds. The Code provides that such contracts shall not be treated as annuity contracts or life insurance contracts for any period in which the investments are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified. On March 2, 1989, the Department of the Treasury issued regulations (Treas. Reg. 1.817–5 (1989)) which established diversification requirements for the investment portfolios underlying variable contracts. The regulations provide that, to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. The regulations do, however, contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company to also

be held by the separate accounts of insurance companies in connection with their variable contracts. (Treas. Reg. § 1.817–5(f)(3)(iii)).

7. Applicant states that the promulgation of Rule 6e–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury regulations and assert that, given the then current tax law, the sale of shares of the same investment company to both separate accounts and Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

8. Applicant therefore requests relief 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, to the extent necessary to permit shares of the Funds to be offered and sold in connection with both mixed and shared funding.

9. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as an investment adviser to, or principal underwriter for, any registered open-end investment company if an affiliated person of that company is subject to a disqualification specified in Section 9(a) (1) or (2) of the 1940 Act. Rules 6e–2(b)(15) (i) and (ii), and 6e–3(T)(b)(15) (i) and (ii), provide exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. The relief provided by Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the Underlying Fund. The relief provided by Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) permits the life insurer to serve as the Underlying Fund's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) participate in the management or administration of the Underlying Fund.

10. Applicant states that the partial relief from Section 9(a) found in Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicant states that those rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals employed by the Participating Insurance Companies, most of whom will have no involvement in matters pertaining to investment companies within that organization. Applicant submits that there is no regulatory reason to apply the provision of Section 9(a) to the many individuals in the Participating Insurance Companies that may utilize the Funds as the funding medium for variable contracts. The application states that the relief requested will not be affected by the proposed sale of shares of the Funds to Plans. The insulation of the Funds from individuals disqualified under the 1940 Act remains in place. Applicant asserts that since the Plans are not investment companies no additional relief is necessary.

11. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act assume the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. The application states that Participating Insurance Companies will provide pass-through voting privileges to all Contract owners so long as the SEC interprets the 1940 Act to require such privileges.

12. 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 contract owners in certain limited circumstances.

Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its contract owners in connection with the voting of an Underlying Fund if such instructions would require such shares to be voted to cause such companies to make, or refrain from making, certain investments which would result in changes in the subclassification or investment objectives of such companies, or to approve or disapprove any contract between a Fund and its investment adviser, when required to do so by an insurance regulatory authority, subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of each Rule.

Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(2) provide that the insurance company may disregard contract owners' voting instructions if the contract owners initiate any change in such company's investment policies or any principal underwriter or investment adviser, providing that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii) and (b)(7)(ii) (B) and (C) of each Rule.

13. Applicant further represents that the sale of shares by a Fund to the Plans does not impact the relief requested in this regard. Shares of the Funds sold to Plans would be held by the trustees of such Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustees must have exclusive authority and discretion to manage and control the Plan with certain exceptions not relevant herein. Accordingly, Plan trustees have exclusive authority and responsibility for voting proxies on behalf of a Plan.

14. Applicant states that no increased conflicts of interest would be present by the granting of the requested relief. Applicant asserts that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. Applicant notes that where different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. Applicant states that this possibility is no different or greater than exists where a single insurer and its affiliates offer their insurance products in several states.

15. Applicant argues that affiliation does not reduce the potential for differences in state regulatory requirements. In any event, the conditions (adapted from the conditions included in Rule 6e–3(T)(b)(15)) are designed to safeguard against any adverse effects that these differences may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Funds.

16. Applicant also argues that affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating Insurance Company could disregard contract owner voting instructions. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard contract owner instructions represents a minority

position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its separate account's investment in that Fund. No charge or penalty will be imposed as a result of such a withdrawal.

17. Applicant states that there is no reason why the investment policies of a Fund with mixed funding would, or should, be materially different from what those policies would, or should, be if such investment company or series thereof funded only variable annuity or variable life insurance contracts. Applicant therefore argues that there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, Applicant represents that the Funds will not be managed to favor or disfavor any particular insurance company or type of Contract.

18. Applicant notes that no single investment strategy can be identified as appropriate to a particular insurance product. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. An investment company supporting even one type of insurance product must accommodate those diverse factors in order to attract and retain purchasers.

19. Applicant further notes that Section 817(h) of the Code is the only section in the Code where separate accounts are discussed. Section 817(h) imposes certain diversification standards on Underlying Fund assets and Treasury Regulation 1.817–5(f)(3)(iii) specifically permits ''qualified pension or retirement plans'' and separate accounts to share the same underlying management investment company. Therefore, neither the Code, the Treasury regulations nor the revenue rulings thereunder present any inherent conflicts of interest if all invest in the same management investment company.

20. While there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Plans, Applicant states that these tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account or the Plan is unable to net purchase payments to make the distributions, the separate account or the Plan will redeem shares of the Funds at their respective net asset value. The Plan will then make distributions in accordance with the terms of the Plan. The life insurance company will surrender values from the separate account into the general account to make distributions in accordance with the terms of the variable contract.

21. With respect to voting rights, Applicant states that it is possible to provide an equitable means of giving such voting rights to contract owners and to Plans. Applicant represents that the transfer agent for each Fund will inform each Participating Insurance Company of its share ownership in each Separate Account, as well as inform the trustees of the Plans of their holdings. Each Participating Insurance Company will then solicit voting instructions in accordance with Rules 6e–2 and 6e–3(T).

22. Applicant argues that the ability of the Funds to sell their shares directly to Plans does not create a ''senior security,'' as such term is defined under Section 18(g) of the 1940 Act, with respect to any contract owner as opposed to a participant under a Plan. Regardless of the rights and benefits of participants and contract owners under the respective Plans and Contracts, the Plans and the separate accounts have rights only with respect to their respective shares of the Funds. Such shares may be redeemed only at net asset value. No shareholder of any of the Funds has any preference over any other shareholder with respect to distributions of assets or payment of dividends.

23. Finally, Applicant asserts that there are no conflicts between contract owners and participants under the Plans with respect to the state insurance commissioners' veto powers over investment objectives. State insurance commissioners have been given the veto power in recognition of the fact that insurance companies cannot simply indiscriminately redeem their separate accounts out of one fund and invest those monies in another fund. Generally, to accomplish such redemptions and transfers, complex and time consuming transactions must be undertaken. Conversely, trustees of Plans can make the decision quickly and implement redemption of shares from a Fund and reinvest the monies in another funding vehicle without the same regulatory impediments or, as is the case with most Plans, even hold cash pending a suitable investment. Based on the foregoing, Applicant represents that even should there arise issues where the interests of contract owners and the interests of Plan conflict, the issue can be almost immediately resolved in that trustees of the Plans can, independently, redeem shares out of the Funds.

24. Applicant states that various factors have kept certain insurance companies from offering variable annuity and variable life insurance contracts. According to Applicant, these factors include: the cost of organizing and operating an investment funding medium; the lack of expertise with respect to investment managers; and the lack of public name recognition of certain insurers as investment professionals. Applicant argues the use of the Funds as common investment media for the Contracts would ease these concerns. Applicant submits that mixed and shared funding should benefit variable contract owners by: (a) eliminating a significant portion of the costs of establishing and administering separate funds; (b) allowing for a greater amount of assets available for investment by the Funds, thereby promoting economies of scale, permitting greater safety through greater diversification, and/or making the addition of new portfolios more feasible; and (c) encouraging more insurance companies to offer their variable contract, resulting in increased competition with respect to both the design and the 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 Insurance Company or type of insurance product.

25. Applicant asserts that there is no significant legal impediment to permitting mixed and shared funding. Applicant states that separate accounts organized as UITs have historically been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Applicant also asserts that mixed and shared funding will have no adverse federal income tax consequences.

## Applicants' Conditions

Applicant has consented to the following conditions:

1. A majority of the Board of Directors or Trustees of each Fund (each a ''Board'') will consist of persons who are not ''interested persons'' thereof, 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 (''disinterested directors''), excepted that if this condition is not met by reason of death, disqualification, or bona fide resignation of any director(s) or trustee(s), then the operation of this condition shall be suspended: (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the

vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Board of each Fund will monitor the Fund for the existence of any material irreconcilable conflict between the interests of contract owners of all Separate Accounts investing in the Fund. A material irreconcilable conflict may arise for a variety of reasons, including: (a) an action by any state insurance regulatory authority; (b) 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; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any series are being managed; (e) a difference in voting instructions given by variable annuity and variable life insurance contract owners; and (f) a decision by a Participating Insurance Company to disregard the voting instructions of contract owners.

3. In the event that a Plan should become an owner of 10% or more of the assets of a Fund, such Plan will execute a participation agreement with the Fund including the conditions set forth herein to the extent applicable. A Plan will execute an application with each of the Funds, including Future Funds, that contains acknowledgement of this condition at the time of its initial purchase of shares of the Fund.

4. Participating Insurance Companies, the Advisor, and any Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of a Fund (collectively, the ''Participants'') will report any potential or existing conflicts to the respective responsible Board(s). Participants will be responsible for assisting the Board(s) in carrying out its responsibilities under these conditions by providing the Board(s) with all information reasonably necessary for the Board(s) to consider any issues raised. This includes, but is not limited to, an obligation by the Advisor and each Participating Insurance Company to inform the respective responsible Board(s) whenever contract owner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board(s) will be a contractual obligation of all Participants investing in the Funds under their agreements governing participation in each Fund, and such agreements will provide that these responsibilities will be carried out with a view only to the interests of contract owners.

5. If it is determined by a majority of the Board, or a majority of its disinterested directors or trustees, that a material irreconcilable conflict exists, the relevant Participating Insurance Companies and Plans will, at their expense and to the extent reasonably practical (as determined by a majority of the disinterested directors or trustees) take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) withdrawing the assets allocable to some or all of the Separate Accounts from the affected Fund or any portfolio thereof and reinvesting such assets in a different investment medium, which may include another portfolio of that Fund or another Fund; (b) submitting the question of whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity and variable life insurance contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Fund, to withdraw its Separate Account's investment in that Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility of taking remedial action in the event of a Board determination of an irreconcilable material conflict and bearing the cost of such remedial action will be a contractual obligation of all Participants under their agreements governing participation in the Funds, and these responsibilities will be carried out with a view only to the interests of contract owners and Plan participants, as applicable.

For purposes of this Condition Five, a majority of the disinterested directors or trustees of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material 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 Five to establish a new funding medium for any variable contract if any offer to do so has been declined by vote of a majority of the contract owners materially adversely affected by the material irreconcilable conflict.

6. A Board's determination of the existence of a material irreconcilable conflict and its implications shall be made known in writing promptly to all Participants.

7. Participating Insurance Companies will provide pass-through voting privileges of Fund shares to all variable contract owners so long as the SEC interprets the 1940 Act to require pass-through voting privileges for contract owners. Accordingly, Participating Insurance Companies will vote shares of the Funds held in their Separate Accounts in a manner consistent with timely voting instructions received from contract owners. Each Participating Insurance Company will vote shares of the Funds held in their Separate Accounts for which it has not received timely voting instructions from contract owners, as well as shares of a Fund which the participating Insurance Company itself owns, in the same proportion as those shares of the Fund for which voting instructions from contract owners are timely received. Participating Insurance Companies will be responsible for assuring that each of their Separate Accounts participating in the Funds calculates voting privileges in a manner consistent with other Participants. The obligation to calculate voting privileges in a manner consistent with all other Separate Accounts investing in the Funds shall be a contractual obligation of all Participating Insurance Companies under their agreement governing participation in the Funds.

8. Each Fund will comply with all the provisions of the 1940 Act requiring voting by shareholders and in particular each Fund will either provide for annual meetings (except insofar as the SEC may interpret Section 16 of the 1940 Act not to require such meetings), or comply with Section 16(c) of the 1940 Act (although the Fund is not one of the trusts described in Section 16(c) of the 1940 Act), as well as Section 16(a) of the 1940 Act and, if applicable, Section 16(b) of the 1940 Act. Further, each Fund will act in accordance with the SEC's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors and with whatever rules the SEC may promulgate with respect thereto.

9. Each Fund will disclose in its prospectus that: (a) The Fund is intended to be the funding vehicle for all types of variable annuity and

variable life insurance contracts offered by various insurance companies and Plans; (b) material irreconcilable conflicts may possibly arise; and (c) the Fund's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and determine what action, if any, should be taken in response to such conflict. Each Fund will notify all Participating Insurance Companies that Separate Account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate.

10. If and to the extent that Rules 6e–2 and 6e–3(T) under the 1940 Act are amended (or if Rule 6e–3 under the 1940 Act is adopted) to provide exemptive relief from any provisions of the 1940 Act or the Rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested by Applicant, then the Funds and/or the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent applicable.

11. The Participants, at least annually, shall submit to each Fund's Board such reports, materials, or data as the Board may reasonably request so that the Board may carry out fully the obligations imposed upon it by the conditions contained in the Application. Such reports, materials and data will be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, materials and data to the Board shall be a contractual obligation of the Participants under their agreements governing their participation in the Funds.

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

Conclusion

For the reasons set forth above, Applicant represents that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–369 Filed 1–9–96; 8:45 am]

BILLING CODE 8010–01–M

**[Investment Company Act Release No. 21658; 811–7960]**

## Van Kampen Merritt California Municipal Opportunity Trust; Notice of Application

January 4, 1996.

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

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

**APPLICANT:** Van Kampen Merritt California Municipal Opportunity Trust.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant requests an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on December 27, 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 29, 1996, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, One Parkview Plaza, Oakbrook Terrace, Illinois 60181.

**FOR FURTHER INFORMATION CONTACT:** Diana L. Titus, Paralegal Specialist, at (202) 942–0584, or H.R. Hallock, Jr., Special Counsel, 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 from SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end, diversified management investment company organized as a Massachusetts business trust. On or about August 10, 1993, applicant registered under the Act and filed a registration statement under the Securities Act of 1933 (the ''1933 Act''). Applicant's registration statement was not declared effective, and applicant has made no public offering of its shares.

2. On August 2, 1994, applicant requested that its registration statement under the 1933 Act be withdrawn. The registration statement was declared withdrawn on August 4, 1994.

3. Applicant has never issued or sold shares of which it is the issuer. Applicant has no shareholders, liabilities, or assets. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant is not engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–356 Filed 1–9–96; 8:45 am]

BILLING CODE 8010–01–M

**[Investment Company Act Release No. 21657; 811-6365]**

## Van Kampen Merritt Michigan Quality Municipal Trust; Notice of Application

January 4, 1996.

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

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

**APPLICANT:** Van Kampen Merritt Michigan Quality Municipal Trust.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant requests an order declaring that its has ceased to be an investment company.

**FILING DATE:** The application was filed on December 27, 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 29, 1996, and shold be accompanied by proof of service on the applicant, in the form of an affidavit or,