

nine months ended September 30, 1999, Indiana Gas had operating revenues of approximately \$419,061,000 and net income of approximately \$31,377,000.

Indiana Gas is also a holding company because it owns all of the voting securities of Richmond Gas Corporation ("Richmond Gas") and Terre Haute Gas Corporation ("Terre Haute"), both public-utility companies. While Richmond Gas and Terre Haute technically exist as separate corporate entities, in accordance with an order issued by the Indiana Utility Regulatory Commission ("IURC"), Indiana Gas, Richmond Gas and Terre Haute have combined their operations for all purposes and are transacting business under the name of "Indiana Gas Company, Inc."<sup>4</sup>

The non-utility subsidiaries of Indiana Energy include: (1) IEI Services, LLC, which provides support services to Indiana Energy and its subsidiaries; (2) IEI Capital Corp., which was formed to carry out the financing activities of Indiana Energy; and (3) IEI Investments, Inc., which was formed to separate the non-regulated businesses and investments of Indiana Energy.

Vectren states that the merger will create a company that is better positioned to compete in the energy industry and expects the long-term value to shareholders to be enhanced while providing customers with reliable service at more stable and competitive prices.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24276; 812-11458]

### Scudder Global Fund, Inc., et al.; Notice of Application

February 3, 2000.

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

**ACTION:** Notice of an application for an order under section 12(d)(1)(f) of the

production in the Mid-continent basin. Approximately 2% of Indiana Gas's gas supplies are accessed through the Chicago market hub giving supply choice from the western Canadian Basin, Michigan production basin or the Mid-continent basin.

<sup>4</sup> Under the order of the IURC, accounting records and financial reports are maintained and presented on a consolidated basis.

Investment Company Act of 1940 ("Act") for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain registered management investment companies and certain entities that are excluded from the definition of investment company by section 3(c)(1), 3(c)(7) or 3(c)(11) of the Act to invest uninvested cash in (a) affiliated money market funds and/or short-term bond funds or (b) one or more affiliated entities that operate as cash management investment vehicles and that are excluded from the definition of investment company by section 3(c)(1) or 3(c)(7) of the Act.

**APPLICANTS:** Scudder Global Fund, Inc., Scudder International Fund, Scudder New Asia Fund, Inc., Scudder Global High Income Fund, Inc., The Argentina Fund, Inc., The Brazil Fund, Inc., The Korea Fund, Inc., The Japan Fund, Inc., Scudder California Tax Free Trust, Scudder Cash Investment Trust, Scudder Fund, Inc., Scudder Funds Trust, Scudder GNOME Fund, Scudder Investment Trust, Scudder Municipal Trust, Scudder Mutual Funds, Inc., Scudder Pathway Series, Scudder Portfolio Trust, Scudder Securities Trust, Scudder State Tax Free Trust, Scudder Tax Free Money Fund, Scudder Tax Free Trust, Scudder US Treasury Money Fund, Scudder Variable Life Investment Fund, CARP Growth Trust, CARP Income Trust, CARP Managed Investment Portfolios Trust, CARP Tax Free Income Trust, CARP Cash Investment Funds, Kemper Equity Trust, Kemper Global/International Series, Inc., Kemper Securities Trust, Kemper Europe Fund, Investor Fund Series (collectively, the "Investment Companies"), Scudder Cash Management Investment Trust ("SCMIT") (together with the Investment Companies, the "Funds"), Scudder Trust Company ("STC"), and Scudder Kemper Investments, Inc. ("SKI").

**FILING DATES:** The application was filed on January 8, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the

Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 28, 2000, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicants, c/o Philip H. Newsman, Esq., Goodwill, Proctor & Oar LPL, Exchange Place, Boston, MA 02109.

**FOR FURTHER INFORMATION CONTACT:** Lawrence W. Pisto, Senior Counsel, at (202) 942-0527, or George J. Zornada, Branch Chief, at (202) 942-0564, Office of Investment Company Regulation, Division of Investment Management.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549-0102 (tel. (202) 942-8090).

### Applicants' Representations

1. Each Investment Company is organized as a Massachusetts business trust or a Maryland corporation and is registered under the Act as a management investment company.<sup>1</sup> SCMIT is a New Hampshire investment trust that is relying on section 3(c)(1) of the Act. STC, a New Hampshire banking corporation, is the trustee of SCMIT and is controlled by SKI. SKI is registered under the Investment Advisers Act of 1940 and serves as the investment adviser to the Funds (SKI and all entities controlling, controlled by, or under common control with SKI, collectively, "SKI").<sup>2</sup>

<sup>1</sup> The following Investment companies are registered under the act as closed-end companies: The Argentina Fund, Inc.; The Brazil Fund, Inc.; The Korea Fund, Inc.; Scudder Global High Income Fund, Inc.; and Scudder New Asia Fund, Inc. The other Investment Companies are registered under the Act as open-end companies.

<sup>2</sup> Applicants also request relief for all other existing or future registered investment companies and series thereof that are advised by SKI and all other trusts or other entities excluded from the definition of "investment company" under section 3(c)(1), 3(c)(7) or 3(c)(11) of the Act now existing or hereafter established for which SKI acts as trustee or investment adviser. All Funds that currently intend to rely on the relief have been named as applicants, and any other existing or future Fund that relies on the relief will comply with the terms and conditions of the application.

2. Each Investment Company that is not a money market fund (a "Registered Participating Fund") has, or may be expected to have, cash balances that have not been invested in portfolio securities ("Uninvested Cash"). Uninvested Cash may result from a variety of sources, including dividends or interest received from portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions and dividend payments, and new cash received from investors. Currently, the Participating Funds can invest Uninvested Cash directly in money market instruments or other short-term debt obligations.<sup>3</sup> Applicants state that certain other entities that are excluded from the definition of investment company pursuant to section 3(c)(1), 3(c)(7) or 3(c)(11) of the Act for which SKI acts as trustee or investment adviser (the "Private Participating Funds") also may have uninvested cash.

3. Applicants request an order to permit: (i) Registered Participating Funds and Private Participating Funds (collectively, "Participating Funds") to use their Uninvested Cash to purchase shares of one or more of the Investment Companies that are money market funds or short-term bond funds (the "Registered Central Funds") and shares of SCMIT or one or more future entities for which SKI acts as trustee or investment adviser that operate as cash management investment vehicles and that are excluded from the definition of investment company pursuant to section 3(c)(1) or 3(c)(7) of the Act (the "Private Central Funds") (the Registered Central Funds and the Private Central Funds, collectively, the "Central Funds");<sup>4</sup> (ii) the Central Funds to sell their shares to and purchase (redeem) such shares from the Participating Funds; (iii) certain of the Participating Funds and Central Funds to engage in Interfund purchase and sale transactions ("Interfund Transactions"); and (iv) SKI to effect the above transactions.

4. The investment by each Registered Participating Fund in shares of the Central Funds will be in accordance with that Registered Participating

Fund's investment policies and restrictions as set forth in its registration statement. Certain of the Registered Central Funds are or will be taxable or tax-exempt money market funds that comply with rule 2a-7 under the Act. The other Registered Central Funds are or will be short-term bond funds that invest in fixed-income securities and maintain a dollar weighted average maturity of three years or less. The Private Central Funds will comply with rule 2a-7 under the Act.

### Applicant's Legal Analysis

#### *I. Investment of Uninvested Cash by the Participating Funds in the Central Funds*

##### A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act provides that an investment company may not acquire securities of a registered investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies. Any entity that is excluded from the definition of investment company under section 3(c)(1) or 3(c)(7) of the Act is deemed to be an investment company for the purposes of the 3% limitations specified in section 12(d)(1)(A) and (B) with respect to purchases by and sales to such company.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any persons or transactions from any provision of section 12(d)(1) to the extent that the exemption is consistent with the public interest and the protection of investors. Applicants request an order under section 12(d)(1)(J) of the Act to permit the Participating Funds to purchase shares of the Registered Central Funds in excess of the limits of section 12(d)(1)(A) and the Registered Central Funds to sell their shares to the Participating Funds in excess of the limits of section 12(d)(1)(B).

3. Applicants maintain that the proposed arrangement will not result in the abuses that sections 12(d)(1)(A) and

(B) were intended to address. Applicants state that each of the Registered Central Funds will be managed specifically to maintain a highly liquid portfolio, and access to them will enhance each Participating Fund's ability to manage Uninvested Cash. Applicants state that there will not be an inappropriate layering of fees because shares of the Registered Central Funds sold to or redeemed by the Participating Funds will not be subject to a sales charge load, redemption fee, asset-based distribution fee under a plan adopted in accordance with rule 12b-1 under the Act, or a service fee. In addition, if SKI collects a fee from Registered Central Fund for acting as its investment adviser with respect to assets invested by a Registered Participating Fund, when approving an investment advisory contract under section 15 of the Act, the Board of the Registered Participating Fund will consider to what extent the advisory fees paid by the Registered Participating Fund to SKI should be reduced to account for the reduced services provided to the Registered Participating Fund as a result of Uninvested Cash being invested in the Registered Central Fund. Each Registered Participating Fund also will invest Uninvested Cash in Central Funds only to the extent that the Registered Participating Fund's aggregate investment in the Central Funds does not exceed 25% of its total assets in shares of the Central Funds. Applicants also state that no Central Fund will acquire securities of any investment company in excess of the limits of section 12(d)(1)(A).

##### B. Section 17(a)

1. Sections 17(a)(1) and (2) of the Act make it unlawful for any affiliated person of a registered investment company, or an affiliated person of the affiliated person, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; any person directly or indirectly controlling, controlled by, or under common control with the other person; and, in the case of an investment company, its investment adviser.

2. Because SKI serves as, or will serve as, each Fund's investment adviser or trustee exercising investment discretion, the Funds may be deemed to be under common control and therefore affiliated persons, or affiliated persons of an affiliated person, of each other. In

<sup>3</sup> Certain of the applicants also have received an order under section 17(d) and rule 17d-1 under the Act which permits them to establish one or more joint trading accounts for purposes of engaging in joint repurchase agreement transactions. Scudder Global Fund, Inc. *et al.*, Investment Company Act Release Nos. 10828 (October 7, 1998) (order) and 23525 (November 5, 1998) (order).

<sup>4</sup> SCMIT is the only currently existing Non-Registered Central Fund.

addition, certain Investment Companies could be deemed to be under common control by virtue of the fact that they share a common board of directors or trustees ("Board"). In addition, if a Participating Fund purchases more than 5% of the voting securities of a Central Fund, the Participating and Central Funds would be affiliated persons of each other. Accordingly, applicants state that the sale and redemption of shares of the Central Funds by the Registered Participating Funds may be prohibited by section 17(a)(1) and (a)(2).

3. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each investment company concerned and the general purposes of the Act. Section 6(c) of the Act authorizes the Commission to exempt persons or transactions, or classes of persons or transactions, from the provisions of the Act to the extent that such exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

4. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Registered Participating Funds to purchase and redeem shares of the Central Funds. Applicants state that the proposed transactions satisfy the standards of sections 6(c) and 17(b) of the Act. Applicants state that the consideration paid and received on the sale and redemption of shares of the Central Funds will be based on the net asset value per share of the Central Funds. Applicants also state that the Participating Funds will retain their ability to invest their Uninvested Cash directly in money market instruments and other short term obligations if they believe they can obtain a higher rate of return or for any other reason. Each of the Central Funds also reserves the right to discontinue selling shares to any of the Participating Funds if the Central Fund's Board determines that the sales would adversely affect the Central Fund's management and operations. In addition, applicants state that the investment of assets of the Registered Participating Funds in shares of the Central Funds, and the issuance of shares of the Central Funds, will be effected in accordance with each Registered Participating Fund's investment guidelines and will be consistent with each Registered

Participating Fund's policies as set forth in its registration statement. Applicants also state that the Non-Registered Central Funds will comply with the provisions of the Act relating to prohibitions on affiliated transactions, leveraging, the issuance of senior securities, and rights of redemption.

#### C. Section 17(d) and Rule 17d-1

1. Section 17(d) of the Act and rule 17d-1 under the Act generally prohibit an affiliated person of a registered investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission has approved the joint arrangement by an order. Applicants state that the Participating Funds and Central Funds, by participating in the proposed transactions, and SKI, by effecting the proposed transactions, could be deemed to be participants in a joint enterprise for the purposes of section 17(d) of the Act and rule 17d-1 under the Act.

2. In passing on applications for orders under section 17(d), rule 17d-1 requires that the Commission consider whether an investment company's participation in a joint enterprise or joint arrangement is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants state that, for the reasons discussed above, the proposed transactions meet the standards for an order under rule 17d-1.

## II. Interfund Transactions

1. Applicants state that they currently rely on rule 17a-7 under the Act to conduct Interfund Transactions. Rule 17a-7 under the Act excepts from the prohibitions of section 17(a) the purchase or sale of certain securities between registered investment companies which are affiliated persons, or affiliated persons of affiliated persons, of each other or between a registered investment company and a person which is an affiliated person of such company (or an affiliated person of such person) solely by reason of having a common investment adviser, common officers, and/or common directors. Applicants state that the Participating Funds may become affiliated persons of the Central Funds by virtue of a Participating Fund owning 5% or more of the outstanding voting securities of a Central Fund. Thus, applicants state that certain Funds may not be able to

rely on rule 17a-7 to effect Interfund Transactions. The Interfund Transactions for which relief is requested are transactions between Registered Participating Funds and Private Central Funds and between Private Participating Funds and Registered Central Funds.

2. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Interfund Transactions. Applicants state that the Funds will comply with rule 17a-7 under the Act in all respects, other than the requirement that the registered investment company and the affiliated person thereof (or the affiliated person of such person) be affiliated solely by reason of having a common investment adviser or investment advisers which are affiliated persons of each other, common officers, and/or common directors, solely because a Participating Fund and a Central Fund might become affiliated persons within the meaning of section 2(a)(3)(A) and (B) of the Act. Applicants state that the additional affiliation does not effect the other protections provided by rule 17a-7, including the integrity of the pricing mechanism employed and oversight by each Fund's Board.

### Applicants' Conditions

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

1. The shares of the Central Funds sold to and redeemed from the Participating Funds will not be subject to a sales load, redemption fee, asset-based distribution fee under a plan adopted in accordance with rule 12b-1 under the Act or service fee (as defined in Section 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers, Inc.).

2. If SKI collects a fee from a Central Fund for acting as its investment adviser with respect to assets invested by a Registered Participating Fund, before the next meeting of the Board of the Registered Participating Fund that invests in the Central Funds is held for the purpose of voting on an advisory contract pursuant to section 15 of the Act, SKI will provide the Board with specific information regarding the approximate cost to SKI for, or portion of the advisory fee under the existing advisory fee attributable to, managing the assets of the Registered Participating Fund that can be expected to be invested in the Central Fund. Before approving any advisory contract pursuant to section 15 of the Act, the Board of the Registered Participating Fund, including a majority of the directors or trustees who are not

“interested persons,” as defined in section 2(a)(19) of the Act, shall consider to what extent, if any, the advisory fees charged to the Registered Participating Fund by SKI should be reduced to account for the reduced services provided to the Registered Participating Fund by SKI as result of Uninvested Cash being invested in the Central Fund. The minute books of the Registered Participating Fund will fully record the Board’s consideration in approving the advisory contract, including the fees referred to above.

3. Each of the Participating Funds will invest Uninvested Cash in, and hold shares of, the Central Funds only to the extent that the Participating Fund’s aggregate investment in the Central Funds does not exceed 25% of the Participating Fund’s total assets. For purposes of this limitation, each Participating Fund or series thereof will be treated as a separate investment company.

4. Investment in shares of the Central Funds will be in accordance with each Registered Participating Fund’s policies as set forth in its prospectus and statement of additional information.

5. Each Fund that may rely on the order shall be advised by SKI or will have SKI as its trustee.

6. No Central Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act.

7. The Private Central Funds will comply with the requirements of sections 17(a), (d), and (e), and 18 of the Act as if the Private Central Funds were registered open-end investment companies. With respect to all redemption requests made by a Participating Fund, the Private Central Funds will comply with section 22(e) of the Act. SKI as sole trustee of each Private Central Fund has or will adopt procedures designed to ensure that each Private Central Fund complies with sections 17(a), (d), and (e), 18, and 22(e) of the Act. SKI will also periodically review and update as appropriate such procedures and maintain books and records describing the procedures, and maintain the records required by rules 31a-1(b)(1), 31a-1(b)(2)(ii), and 31a-1(b)(9) under the Act. All books and records required to be made pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the Commission and its staff.

8. Each Private Central Fund will comply with rule 2a-7 under the Act. With respect to such Private Central Fund, SKI will adopt and monitor the procedures described in rule 2a-7(c)(7) and will take such other actions as are required to be taken under those procedures. A Participating Fund may only purchase shares of a Private Central Fund if SKI determines on an ongoing basis that the Fund is in compliance with rule 2a-7. SKI will preserve for a period not less than six years from the date of determination, the first two years in an easily accessible place, a record of such determination and the basis upon which the determination was made. This record will be subject to examination by the Commission and its staff.

9. Each Participating Fund will purchase and redeem shares of any Private Central Fund as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of such Private Central Fund. A separate account will be established in the shareholder records of each Private Central Fund for the account of each Participating Fund that invests in such Private Central Fund.

10. To engage in Interfund Transactions, the Funds will comply with rule 17a-7 under the Act in all respects other than the requirement that the parties to the transaction be affiliated persons (or affiliated persons of affiliated persons) of each other solely by reason of having a common investment adviser or investment advisers which are affiliated persons of each other, common officers, and/or common directors solely because a Participating Fund and a Central Fund might become affiliated persons within the meaning of section 2(a)(3)(A) and (B) of the Act.

11. The net asset value per share with respect to shares of a Private Central Fund will be determined separately for each Private Central Fund by dividing the value of the assets belonging to that Private Central Fund, less the liabilities of that Private Central Fund, by the number of shares outstanding with respect to that Private Central Fund.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-2965 Filed 2-8-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24275; 812-11680]

### Ark Funds, et al.; Notice of Application

February 2, 2000.

**AGENCY:** Securities and Exchange Commission (“Commission”).

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

#### SUMMARY OF THE APPLICATION:

Applicants request an order to permit a pension plan to transfer its assets to certain registered open-end management investment companies in exchange for shares of the companies.

**APPLICANTS:** ARK Funds, Allfirst Financial Inc. Pension Plan (“Allfirst Plan”), Allied Investment Advisers, Inc. (“AIA”), Allfirst Trust Company, N.A. (“Allfirst Trust”) and Allfirst Financial Inc.

**FILING DATES:** The application was filed on July 1, 1999. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 24, 2000, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicants, c/o Alan C. Porter, Esq., Piper Marbury Rudnick & Wolfe LLP, 1200 Nineteenth Street, NW, Washington, DC 20036-2412.

**FOR FURTHER INFORMATION CONTACT:** Emerson S. Davis, Sr., Senior Counsel, at (202) 942-0714, or George J. Zornada, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the