

Applicants request authority for Georgia to guarantee borrowings from the SPV by Southern Electric Generating Company, a wholly owned subsidiary of Georgia and Alabama Power Company, itself an electric public utility subsidiary of Southern.<sup>4</sup>

Applicants propose that the SPV sell the commercial paper directly to or through a dealer or dealers from time to time prior to June 30, 2004 ("Authorization Period") in an aggregate principal amount at any one time outstanding of up to \$3.5 billion. Georgia, Gulf, Mississippi, and Savannah propose to borrow the proceeds of these sales in outstanding amounts that will not during the Authorization Period exceed \$1.7 billion, \$300 million, \$350 million, and \$90 million, respectively. The commercial paper notes will be issued in denominations of not less than \$50,000 and will not by their terms be prepayable prior to maturity. Maturities will be determined by market conditions, the effective interest costs, and the anticipated cash flows of the particular requesting Electric Subsidiary, including the proceeds of other borrowings, at the time of issuance.

The notes will mature in one year or less, subject to extensions; provided, however, none of the notes will mature in more than 390 days. The discount rate (or the interest rate in the case of interest-bearing notes), including any commissions, will not be in excess of the discount rate per annum (or the equivalent interest rate) prevailing at the date of issuance for commercial paper of comparable quality having the same maturity. The terms of each of these borrowings by an Electric Subsidiary will be identical to those of the related commercial paper issued for its benefit.

It is further proposed that Georgia guarantee loans by the SPV to SEGCO. The aggregate amount of these guarantees will not during the Authorization Period exceed \$150 million.

The proceeds from the proposed borrowings by the Electric Subsidiaries and SEGCO will be used for general corporate purposes, including the financing in part of their respective construction programs.

<sup>4</sup> Applicants state that borrowings by Alabama and SEGCO will be exempt from Commission review under rule 52 under the Act.

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

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24392; 812-11958]

### Nations Fund Trust and Banc of America Advisors, Inc.; Notice of Application

April 13, 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 APPLICATION:** Applicants request an order to permit certain series of a registered open-end management investment company to acquire all of the assets and assume all of the liabilities of certain other series of the investment company. Because of certain affiliations, applicants may not rely on rule 17a-8 under the Act.

**APPLICANTS:** Nations Fund Trust ("NFT") and Banc of America Advisors, Inc. ("BAAI").

**FILING DATES:** The application was filed on February 1, 2000. 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 May 8, 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, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicants, One Bank of America Plaza,

101 South Tryon Street, Charlotte, NC 28255.

**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. NFT, a Massachusetts business trust, is registered under the Act as an open-end management investment company. NFT presently offers 36 series, including Nations Managed Value Index Fund and Nations Managed SmallCap Value Index Fund (the "Acquired Series") and Nations Managed Index Fund and Nations Small Cap Index Fund (the "Acquiring Series"). Collectively, the Acquired Series and the Acquiring Series are referred to as the "Series."<sup>1</sup>

2. BAAI is the investment adviser to each of the Series. The adviser is a wholly-owned indirect subsidiary of the Bank of America Corporation and is registered as an investment adviser under the Investment Advisers Act of 1940.

3. Currently, Bank of America Corporation and entities that are under common control with BAAI (the "Bank of America Group"), hold of record, in their name and in the names of their nominees, more than 5% (and with respect to certain of the Series more than 25%) of the outstanding voting securities of the Series. All of the securities are held for the benefit of others in a fiduciary or representative capacity. None of the Bank of America Group owns an economic interest in any of the Series.

4. On December 9, 1999, the board of trustees of NFT (the "Board"), including a majority of the trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("Disinterested Trustees"), approved an Agreement and Plan of Reorganization (the "Reorganization Agreement," and the transaction the "Reorganization"). Under the Reorganization Agreement, on the day following the closing date (the "Closing Date"), which is currently

<sup>1</sup> The Acquired Series and the Acquiring Series correspond with each other as follows: Nations Managed Value Index Fund with Nations Managed Index Fund; and Nations Managed SmallCap Value Index Fund with Nations SmallCap Index Fund.

anticipated to be May 12, 2000, the Acquiring Series will acquire all the assets and liabilities of the corresponding Acquired Series in exchange for shares of the Acquiring Series that have an aggregate net asset value ("NAV") equal to the aggregate NAV of the Acquired Series determined as of 4 p.m. EST on the Closing Date ("Valuation Time"). The value of assets will be determined in the manner set forth in the Series' then-current prospectus and statement of additional information. On the day following the Closing Date or on such other date as may be mutually agreed, each Acquired Series will make a pro rata distribution of shares of the Acquiring Series to shareholders of the Acquired Series and liquidate.

5. Applicants state that the Acquired Series pursue investment objectives, follow investment strategies and present investments risks that are generally similar to those of the corresponding Acquiring Series. Applicants state that all of the Series offer identical Primary A and Investor A shares.<sup>2</sup> Shareholders of the Acquired Series will not incur any sales charges in connection with the Reorganization. BAAI or another entity in the Bank of America Group will be responsible for the customary expenses of the Reorganization.

6. The Board, including all the Disinterested Trustees, determined that the Reorganization is in the best interests of each of the Acquired Series and each of the Acquiring Series, and that the interests of the shareholders of the Acquired Series and Acquiring Series would not be diluted by the Reorganization. In assessing the Plan, the factors considered by the Board included, among others, (a) the terms and conditions of the Reorganization, (b) the expense ratios, fees and expenses of the Acquired Series compared to the Acquiring Series, (c) the compatibility of investment objectives, (d) the fact that BAAI or an affiliate will bear the expenses incurred in connection with the Reorganization, and (e) the tax-free nature of the Reorganization.

7. The Reorganization Agreement is subject to a number of conditions precedent, including that: (1) The shareholders of the Acquired Series approve the Reorganization Agreement, (b) definitive proxy solicitation materials shall have been filed with the Commission and distributed to shareholders of the Acquired Series, (c) the Acquiring and Acquired Series receive an opinion of tax counsel that

the Reorganization will be tax-free for each Series and its shareholders, and (d) applicants receive from the Commission an exemption from section 17(a) of the Act for the Reorganization. The Reorganization Agreement may be terminated and the Reorganization abandoned at any time by consent of the Board; the Board may also terminate the Reorganization Agreement if its conditions are not satisfied. Applicants agree not to make any material changes to the Reorganization Agreement without prior Commission approval.

8. Definitive proxy solicitation materials have been filed with the Commission and were mailed to shareholders of the Acquired Series on February 4, 2000. A special meeting of shareholders is scheduled for April 21, 2000.

#### Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of that person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) 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; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company. Applicants state that the Series may be deemed affiliated persons and thus the Reorganization prohibited by section 17(a).

2. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants state that they may not rely on rule 17a-8 in connection with the Reorganization because each of the Series may be deemed to be affiliated for reasons other than having a common investment adviser, common directors, and/or common officers. Because the Bank of America Group holds of record

more than 5% (and in some cases more than 25%) of the outstanding voting securities of each of the Series, each Acquired Series may be deemed an affiliated person of an affiliated person of each Acquiring Series.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b). Applicants note that the Board, including a majority of the Disinterested Trustees, found that participation in the Reorganization is in the best interests of each Series and that the interests of the existing shareholders of each Series will not be diluted as a result of the Reorganization. Applicants also note that the exchange of the Acquired Series' assets for shares in the Acquiring Series will be based on the Series' relative net asset values.

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

**Jonathan G. Katz,**  
Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24393, 812-11598]

#### Barclays Global Fund Advisors, et al.; Notice of Application

April 17, 2000.

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

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit an open-end management investment company, whose portfolios will consist of the component securities of certain

<sup>2</sup>One of the Acquiring Series, Nations Managed Index Fund, also offers Primary B Shares. Such shares will not be part of the Reorganization.