

exceptions or discretion topic also should include exploration of what are the decision-making criteria, and at what levels are the decisions implemented at, i.e., national, regional, local, or facility specific. Discussion of all issues will be aided by developing a record of the historical trends that have occurred in holiday and holiday eve service levels.

The Commission does not contemplate consideration at this time of whether the level of holiday and holiday eve service is adequate under section 3661(a). Carlson has not made a specific allegation that these service levels are not adequate. As with the Sunday service issue, the Commission is not aware of any timely anecdotal or mailer initiated discussions concerning the sufficiency of the current level of service. However, the complainant will be given the opportunity to modify his complaint and make this allegation if he is going to enter evidence in support of an allegation that holiday and holiday eve service levels are not adequate. This opportunity is granted to curtail the possibility of a future complaint that would necessarily cover much of the same territory that will be covered in the instant complaint.

The burden is on the complainant to go forward with the case. The first action that must occur is for the complainant to inform the Commission of the time required to develop his case. This includes several items. First, the complainant shall inform the Commission if he is going to modify his complaint, as stated above, and if so, the date when this filing will be made. Second, the complainant shall state the number of days requested for discovery. Third, the complainant shall indicate the nature of the presentation he expects to make in support of this complaint. The complainant shall provide the Commission with the information requested by April 3, 2001. At this time, the complainant should submit any other requests for time along with a description of the contemplated task. Other participants may respond regarding this filing by April 10, 2001.

#### Representation of the General Public

In conformance with 39 U.S.C. 3624(a), the Commission designates Ted P. Gerarden, director of the Commission's office of the consumer advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Mr. Gerarden will direct the activities of Commission personnel assigned to assist him and, when requested, will supply their names for the record. Neither Mr. Gerarden nor

any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and contemporaneous with, service on the Commission of the 24 copies required by rule 10(d). 39 CFR. 3001.10(d).

#### Ordering Paragraphs

It is ordered:

1. The unopposed Douglas F. Carlson motion for extension of time to respond to Postal Service motion to dismiss, filed December 7, 2000, is granted.

2. The unopposed motion of the United States Postal Service for leave to reply to Douglas F. Carlson answer in opposition to Postal Service motion to dismiss, filed December 26, 2000, is granted.

3. The motion to dismiss included with the answer of the United States Postal Service and motion to dismiss, filed November 27, 2000, is granted in part, and denied in part, consistent with the body of this ruling.

4. The Carlson filing providing the information requested in the body of this ruling concerning going forward with this case is due by April 3, 2001. Other participants may respond regarding this filing by April 10, 2001.

5. Ted P. Gerarden, director of the office of the consumer advocate, is designated to represent the general public in this proceeding.

6. The acting secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

**Steven W. Williams,**  
*Acting Secretary.*

[FR Doc. 01-7439 Filed 3-23-01; 8:45 am]

**BILLING CODE 7710-12-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24895; 812-2440]

#### Lindner Investments and Lindner Asset Management, Inc.; Notice of Application

March 20, 2001.

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

**ACTION:** Notice of an application for an order under sections 6(c), 12(d)(1)(J), and 17(b) of the Investment Company Act of 1940 (the "Act") for exemption from sections 12(d)(1)(A) and (B) and 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 THE APPLICATION:** The requested order would permit certain registered management investment companies to invest uninvested cash in an affiliated money market fund in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

**APPLICANTS:** Lindner Investments ("Trust") and Lindner Asset Management, Inc. ("Adviser").

**FILING DATES:** The application was filed on February 7, 2001 and amended on March 9, 2001.

**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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 16, 2001, 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, N.W., Washington, D.C. 20549-0609. Applicants, 7711 Carondelet, Suite 700, St. Louis, MO 63105.

**FOR FURTHER INFORMATION CONTACT:** Nadya, B. Roytblat, Assistant Director, at (202) 942-0693 (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 Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549-0102 (tel. 202-942-8090).

#### Applicant's Representations

1. The Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. The Trust currently offers six portfolios (together with any registered open-end management investment company or series thereof that is advised by the Adviser, the "Funds"), including the Lindner Government Money Market Fund (together with any future Fund that is a money market fund and complies with rule 2a-7 under the

Act, the "Money Market Fund").<sup>1</sup> The Money Market Fund complies with rule 2a-7 under the Act. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940.<sup>2</sup> The Adviser serve as the investment adviser for the Funds.

2. Applicants state that each Participating Fund (as defined below) has, or may be expected to have, cash that has not been invested in portfolio securities ("Uninvested Cash"). Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, dividend payments, or money received from investors. A Fund that purchases shares of the Money Market Fund is referred to as a Participating Fund.

3. Applicants request an order to permit each of the Participating Funds to invest their Uninvested Cash in the Money Market Fund, and to permit the Money Market Fund to sell shares to, and redeem shares from, the Participating Funds. Investments of Uninvested Cash in shares of the Money Market Fund will be made only to the extent that such investment is consistent with each Participating Fund's investment restrictions and policies as set forth in the Participating Fund's prospectus and statement of additional information. Applicants state that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and diversify holdings.

#### Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides, in pertinent part, that no registered investment company may acquire securities of another 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 total assets. Section 12(d)(1)(B) of the Act, in pertinent part, 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.

2. Section 12(d)(1)(j) of the Act provides that the Commission may exempt any person, security, transaction from any provision of section 12(d)(1) if, and to the extent that, such exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(j) from the limitations of sections 12(d)(1)(A) and (B) to permit the Participating Funds to invest Uninvested Cash in the Money Market Fund.

3. Applicants state that the proposed arrangement would not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because the Money Market Fund will maintain a highly liquid portfolio, a Participating Fund will not be in a position to gain undue influence over the Money Market Fund. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Fund sold to the Participating Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act, or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers' ("NASD") Conduct Rules). Applicants represent in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of such 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 an investment company to include, among others, any person directly or indirectly controlling, controlled by, or under common control with the investment company and any investment adviser to the investment company. Applicants state that, because the Funds share a common board of directors, each Fund may be deemed to be under common control with each of the other Funds, and thus an affiliated person of each of the other Funds. As a result, section 17(a) would prohibit the sale of the shares of the Money Market Fund to the Participating Funds, and the redemption of the shares by the Money Market Fund.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) 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, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that their request for relief to permit the purchase and redemption of shares of the Money Market Fund by the Participating Funds satisfies the standards in sections 6(c) and 17(b) of the Act. Applicants note that shares of the Money Market Fund will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. Applicants state that the Participating Funds will retain their ability to invest their Uninvested Cash directly in money market instruments as authorized by their respective investment objectives and policies if they believe they can obtain a higher rate of return, or for any other reason. Applicants also state that the Money Market Fund has the right to discontinue selling shares to any of the Participating Funds if the Money Market Fund's board of directors determines that such sale would adversely affect its portfolio management or operations.

7. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company, acting as principal, from participating in or effecting any company participates. Applicants state that each Participating Fund, by purchasing shares of the Money Market Fund, the Adviser, by managing the assets of the Participating Funds investing in the Money Market Fund, and the Money Market Fund, by selling shares to the Participating Funds, could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d-1 under the Act.

8. Rule 17d-1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission is to consider whether the

<sup>1</sup> Any future Fund that may rely on the order in the future will do so only in accordance with the terms and conditions of the application.

<sup>2</sup> For purposes of this application, the term "Adviser" includes, in addition to Lindner Asset Management, Inc., any other person controlling, controlled by or under common control with Lindner Asset Management, Inc. that acts in the future as an investment adviser to a Fund.

proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the investment by the Participating Funds in shares of the Money Market Fund would be indistinguishable from any other shareholder account maintained by the Money Market Fund and that the transactions will be consistent with the Act.

#### Applicants' Conditions

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

1. Shares of the Money Market Fund sold to and redeemed by the Participating Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act or a service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules).

2. Before the next meeting of the board of directors of the Participating Funds ("Board") is held for purposes of voting on an advisory contract under section 15 of the Act, the Adviser will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the participating Fund that can be expected to be invested in the Money Market Fund. Before approving any advisory contract for a Participating Fund, the Board of the Participating Fund, including a majority of the directors 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 Participating Fund by the Adviser should be reduced to account for reduced services provided to the Fund by the Adviser as a result of Uninvested Cash being invested in the Money Market Fund. The minute books of the Participating Fund will record fully the Board's consideration in approving the advisory contract, including the considerations referred to above.

3. Each of the Participating Funds will invest Uninvested Cash in, and hold shares of, the Money Market Fund only to the extent that the Participating Fund's aggregate investment in the Money Market Fund does not exceed 25 percent 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 Money Market Fund will be in accordance with each Participating Fund's respective investment restrictions, if any, and will be consistent with each Participating Fund's policies as set forth in the prospectus and statement of additional information.

5. Each Participation Fund and the Money Market Fund that may rely on the order will be advised by the Adviser.

6. The Money Market Fund will not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

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BILLING CODE 8010-01-M

#### SMALL BUSINESS ADMINISTRATION

##### Administrator's Line of Succession Designation, No. 1-A, Revision 24

This document replaces and supercedes "Line of Succession Designation No. 1-A, Revision 23."

##### Line of Succession Designation No. 1-A, Revision 24

Effective immediately, the Administrator's Line of Succession Designation is as follows:

(a) If I am absent from the office, I hereby designate the officials in listed order below to serve as Acting Administrator with full authority to perform all acts and functions which the Administrator is authorized to perform:

- (1) Acting Chief of Staff;
- (2) Acting Associate Deputy Administrator for Management and Administration;
- (3) Acting Associate Deputy Administrator for Entrepreneurial Development; and
- (4) Acting General Counsel.

(b) An individual serving in an acting capacity in any of the positions listed in paragraph (a) but not acting by designation of the Administrator is not also included in this Line of Succession. Instead, the next official on the list shall serve as Acting Administrator.

(c) This designation shall remain in full force and effect until revoked or superceded in writing by the Administrator.

(d) Serving as Acting Administrator has no effect on the officials listed in paragraph (a), above, with respect to their current authorities, duties and

responsibilities (except that such official cannot both recommend and approve an action).

Dated: March 16, 2001.

**John D. Whitmore,**  
*Acting Administrator.*

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#### SOCIAL SECURITY ADMINISTRATION

##### Agency Information Collection Activities: Proposed Request, Comment Request and Notice of OMB Approval of an Information Collection Contained in a Regulation

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with P.L. 104-13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. In addition, SSA is announcing OMB's approval of an information collection contained in regulation.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503  
(SSA), Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1-A-21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235-6401

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-4145, or by writing to him at the address listed above.

1. *Waiver of Your Right to Personal Appearance before an Administrative Law Judge*—0960-NEW. Each claimant has a statutory right to appear in person