

**Alliance Tax-Free Shares, Inc. [File No. 811-2717]; Alliance Insured California Tax Exempt Shares, Inc. [File No. 811-4359]**

*Summary:* Each applicant seeks an order declaring that it has ceased to be an investment company. On July 10, 1987, each applicant transferred its assets to Alliance High Bracket Tax-Free Income Fund, Inc., and Alliance Tax-Free Income Fund, Inc., respectively, each a series of Alliance Municipal Income Fund, Inc., based on net asset value. Applicants incurred no expenses in connection with the reorganizations.

*Filing Date:* The applications were filed on September 28, 2001.

*Applicants' Address:* 1345 Avenue of the Americas, New York, NY 10105.

**Van Wagoner Private Opportunities Fund, L.P. [File No. 811-10279];**

*Summary:* Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering. Applicant will continue to operate as a private investment company in reliance on section 3(c)(1) of the Act.

*Filing Dates:* The applications were filed on August 10, 2001 and amended on October 5, 2001.

*Applicants' Address:* 345 California Street, Suite 2450, San Francisco, CA 94104.

**Blanchard Precious Metals Fund, Inc. [File No. 811-5303]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On February 27, 1998, applicant transferred its assets to Keystone Precious Metals Holdings, Inc. based on net asset value. Applicant incurred no expenses in connection with the reorganization.

*Filing Dates:* The applications were filed on August 31, 2001, and amended on October 10, 2001.

*Applicants' Address:* 5800 Corporate Dr., Pittsburgh, PA 15237-7000.

**Ameritor Industry Fund [File No. 811-855]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On March 7, 2001, applicant made a liquidating distribution to its shareholders based on net asset value. As of October 17, 2001, applicant had 351 shareholders who have not redeemed their shares. First Union National Bank is holding the unclaimed shareholder assets. Applicant intends to liquidate each remaining shareholder's interest by

canceling each remaining shareholder certificate and sending each such shareholder a check representing their remaining interest in applicant. Expenses of approximately \$7,647 incurred in connection with the liquidation were paid by applicant.

*Filing Dates:* The application was filed on July 23, 2001 and amended on October 17, 2001.

*Applicants' Address:* 4400 MacArthur Blvd., NW, Suite 301, Washington, DC 20007-2521.

**Phoenix-Goodwin Multi-Sector Fixed Income Fund, Inc. [File No. 811-5909]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On October 30, 2000, applicant transferred its assets to Phoenix-Goodwin Multi-Sector Short Term Bond Fund, a series of Phoenix Multi-Series Trust, based on net asset value. Expenses of \$70,382 incurred in connection with the reorganization were paid by the acquiring fund and Phoenix Investment Partners, Ltd.

*Filing Date:* The application was filed on June 12, 2001.

*Applicants' Address:* 101 Munson St., Greenfield, MA 01301.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Rel. No. IC-25246; 812-12652]**

**Citizens Funds, et al; Notice of Application**

October 26, 2001.

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

**ACTION:** Notice of application for an order under section (c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval.

**APPLICANTS:** Citizens Funds (the "Trust") and Citizens Advisers, Inc. (the "Adviser").

**FILING DATES:** The application was filed on October 2, 2001 and amended on October 24, 2001.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief 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 November 20, 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, NW., Washington, DC 20549-0609. Applicants, John L. Shields, President, Citizens Advisers, Inc., 230 Commerce Way, Portsmouth, NH 03801.

**FOR FURTHER INFORMATION CONTACT:** Jaea, F. Hahn, Senior Counsel (202) 942-0614, or Nadya B. Royblat, Assistant Director (202) 942-0564 (Office of Investment 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. The Trust is a Massachusetts business trust registered under the Act as an opened management investment company. The Trust currently has eight separate series (each a "Fund", and collectively, the "Funds").<sup>1</sup> The Adviser, a New Hampshire corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act").

2. The Trust has entered into an investment advisory agreement with the Adviser with respect to each of the Funds (the "Advisory Agreement"). The Adviser manages the assets of the Funds and performs various administrative

<sup>1</sup> The applicants request that any relief granted pursuant to the application also apply to future series of the Trust and any other registered open-end management investment company or series thereof advised by the Adviser or a person controlling, controlled by, or under common control with the Adviser that operates in substantially the same manner as the Trust with respect to the Adviser/Subadviser structure and complies with the terms and conditions of the application. (together, "Future Funds", included in the term "Funds"). No fund will contain in its name the name of any Subadviser, as defined below.

duties for the Trust. The Advisory Agreement has been approved by shareholders of each of the Funds and by the Trust's board of trustees (the "Board"), including a majority of the Board members who are not "interested persons" of the Trust, the Adviser or any Subadviser within the meaning of section 2(a)(19) of the Act (the "Independent Trustees"). The Adviser has engaged subadvisers ("Subadvisers") to handle the day-to-day portfolio management of certain of the Funds. Each Subadviser performs services pursuant to a written subadvisory agreement with the Trust and the Adviser ("Subadvisory Agreement"). Each Subadviser Agreement allows the Subadviser discretionary authority to invest all (or the portion assigned to it) of the assets of a particular Fund, subject to general supervision by the Adviser and the Board. Each of the existing Subadvisers is registered as an investment adviser under the Advisers Act. Future Subadvisers will be registered or exempt from registration under the Advisers Act. For its services under the Advisory Agreement, the Adviser receives management fees at annual rates based on a percentage of the applicable Fund's average net assets.

3. The Adviser continuously evaluates the performance of each Subadviser, recommends to the Board the appointment of new Subadvisers as circumstances warrant, and negotiates and renegotiates the terms of the Subadviser Agreements, including the subadvisory fees, with the Subadvisers. Each Subadviser is recommended by the Adviser based on a number of factors, and selected and approved by the Board, including a majority of the Independent Trustees. For their services under the Subadvisory Agreements, each of the Subadvisers receives a subadvisory fee from the Adviser. The Subadvisers are not compensated directly by the Funds, but by the adviser out of the fee the Adviser receives from the Funds.

4. Applicants request an order to permit the Trust and the Adviser to enter into new or amended Subadvisory Agreements with Subadvisers without such agreements being approved by the shareholders of the applicable Fund. The requested relief will not extend to a Subadviser that is an "affiliated person" (as defined in section 2(a)(3) of the Act) of the Trust or the Adviser, other than by reason of serving as a Subadviser to one of the Funds ("Affiliated Subadviser"). None of the current Subadvisers is an Affiliated Subadviser.

### Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by the vote of a majority of the outstanding voting securities of the company. Rule 18f-2 under the Act provides that individual series funds must each company with the contract approval requirements of section 15(a) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such 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. Applicants request an exemption under section 6(c) of the Act from section 15(a) of the Act and rule 18f-2 thereunder to the extent necessary to permit them to enter into Subadvisory Agreements with Subadvisers, amend existing Subadvisory Agreements with Subadvisers, and approve new Subadvisory Agreement with an existing Subadviser that has been terminated as a result of an "assignment," in each case without such Subadvisory Agreement being approved by shareholders of the applicable Fund or Future Fund.

3. Applicants assert that the shareholders are relying on the Adviser's experience to select one or more Subadvisers best suited to achieve a Fund's desired investment objectives. Applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of each Subadvisory Agreement would impose costs and unnecessary delays on the Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreement will remain fully subject to section 15(a) of the Act and rule 18f-2 under the Act, including the requirements for shareholder approval.

### Applicants' Conditions

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

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner

described in the application will be approved by a majority of the outstanding voting securities of the Fund, within the meaning of the Act, or by its initial shareholder, provided that, in the case of approval by the initial shareholder, the pertinent Fund's shareholders will purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below.

2. The Fund's prospectus will disclose the existence, substance and effect of any order granted pursuant to the application. In addition, the Funds will hold themselves out as employing the management structure described in the application. The prospectus with respect to each Fund will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination and replacement.

3. The Adviser will provide general management services to each of the Funds relying on the requested order, including overall supervisory responsibility for the general management and investment of each Fund's assets, and subject to the review and approval by the Board, will, as necessary: (a) Set each Fund's overall investment strategies; (b) select Subadvisers; (c) when appropriate, allocate and reallocate each Funds' assets among Subadvisers; (d) monitor and evaluate Subadviser performance; and (e) oversee Subadviser compliance with the investment objectives, policies and restrictions of the applicable Fund by, among other things, implementing procedures reasonably to ensure compliance.

4. At all times, a majority of the Board will be persons who are Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then existing Independent Trustees.

5. Neither the Adviser nor the Trust will enter into a Subadvisory Agreement with any Affiliated Subadviser without such Subadvisory Agreement, including the compensation to be paid thereunder, being approval by the shareholders of the applicable Fund.

6. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the minutes of the meetings of the Board, that such change is in the best interests of the applicable Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. No director, trustee or officer of the Trust or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by the director, trustee or officer) any interest in a Subadviser except for ownership of (a) interest in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

8. Within 90 days of the hiring of any new Subadviser, the Adviser will furnish the shareholders of the applicable Fund all the information that would have been included in a proxy statement. Such information will include any changes in such information caused by the addition of a new Subadviser. To meet this obligation, the Adviser will provide the shareholders of the applicable Funds with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934, as well as the requirements of Item 22 of Schedule 14A under that Act.

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

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44987; File No. SR-EMCC-2001-03]

### Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to Arrangements To Integrate Emerging Markets Clearing Corporation and the Depository Trust & Clearing Corporation

October 25, 2001.

On August 22, 2001, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> a proposed rule change (File No. EMCC-

2001-03) and on October 24, 2001, amended the proposed rule change.<sup>2</sup> Notice of the proposal was published in the **Federal Register** on October 10, 2001.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### I. Description

The proposed rule change will modify EMCC's organizational documents to facilitate its integration with the Depository Trust and Clearing Corporation ("DTCC") ("Plan"). The primary purpose of the Plan, which was approved by EMCC's Board of Directors on July 25, 2001, is to ultimate harmonized the processing streams at EMCC, the Government Securities Clearing Corporation ("GSCC"), the MBS Clearing Corporation ("MBSCC"),<sup>4</sup> The Depository Trust Company, and the National Securities Clearing Corporation ("NSCC")<sup>5</sup> (collectively, the "Operating Subsidiaries") for the clearance and settlement of institutional and broker transactions by integrating all of the Operating Subsidiaries with DTCC. Under the Plan, EMCC and DTCC will take the following initial actions:

(1) *Conduct an Exchange Offer.* DTCC will form a wholly owned subsidiary ("Acquisition Company") that will make an exchange offer ("Exchange Offer") for EMCC shares. Under the terms of the Exchange Offer, eligible Class A EMCC shareholders<sup>6</sup> will have the opportunity to exchange their EMCC shares for DTCC common stock.<sup>7</sup>

<sup>2</sup> The amendment merely clarified that Class B shareholders would be given post integration voting rights for the election of EMCC directors at a rate of one-quarter vote per share. This clarification was made only to ensure the tax-free nature of the integration transaction and the proposal that Class B shareholders would be given limited voting rights was discussed and comment requested on in the notice. Accordingly, republication of the notice of filing is not required.

<sup>3</sup> Securities Exchange Act Release No. 44896 (Oct. 2, 2001), 66 FR 51695.

<sup>4</sup> Pursuant to separate plans for the integration of GSCC and MBSCC and DTCC, it is contemplated that GSCC and MBSCC will become operating subsidiaries of DTCC at the same time that EMCC becomes an operating subsidiary of DTCC. However, the integration of EMCC and DTCC is not contingent on the integration of GSCC and MBSCC with DTCC and vice versa. Securities Exchange Act Release Nos. 44895 (Oct. 2, 2001), 66 FR 51698 (Oct. 10, 2001); 44989 (Oct. 25, 2001) [File No. SR-GSCC-2001-11]; 44838 (Sept. 24, 2001), 66 FR 51701 (Oct. 10, 2001); 44988 (Oct. 25, 2001) [File No. SR-MBSCC-2001-01].

<sup>5</sup> DTC and NSCC are already wholly owned subsidiaries of DTCC.

<sup>6</sup> EMCC Class A shareholders eligible to participate in the Exchange Offer include EMCC Class A shareholders that are members or affiliates of members of EMCC, GSCC, MBSCC, DTC, or NSCC.

<sup>7</sup> The share exchange rate will be based on the adjusted book values of EMCC and DTCC. The

Concurrent with and subject to the effectiveness of the Exchange Offer, EMCC will repurchase the Class A and Class B common shares held by its trade association shareholders. Subject to the effectiveness of the Exchange Offer, EMCC's trade association shareholders will receive from EMCC in exchange for their Class A and Class B common shares cash in an amount equal to the lesser of (a) Their acquisition cost or (b) the adjusted book value of their shares. EMCC's Class B shareholders will retain their Class B shares (other than the trade association shareholders who will be paid out as provided above) with the same rights to have their shares repurchased for cash as currently provided in EMCC's Amended and Restated Shareholder Agreement ("EMCC Shareholder Agreement").<sup>8</sup> Following a successful Exchange Offer, Acquisition Company will be the majority shareholder of EMCC and the Class B and any non-eligible and/or non-tendering Class A EMCC shareholders will remain as minority shareholders in EMCC.

As a matter of DTCC policy, EMCC's retained earnings at the time of (or as of the end of the last full preceding calendar month) the integration of EMCC with DTCC will be dedicated to supporting EMCC's business. Acquisition Company and DTCC will not engage in clearing agency activities. Certain support functions, including human resources, finances, audit, general administration, and corporate communications will continue to be centralized in DTCC and be provided by DTCC to EMCC pursuant to service contracts.

(2) *Change EMCC's Shareholder Agreement.* EMCC's Shareholder Agreement will be amended in connection with the Exchange Offer in order to eliminate any restrictions on transferring EMCC shares to Acquisition Company. Following a successful Exchange Offer, the EMCC Shareholder Agreement will be terminated.

(3) *Select New EMCC's Directors.* DTCC, through its wholly-owned subsidiary, Acquisition Company, will

adjusted book value of EMCC will equal book value less the retained earnings of EMCC at the time of (or as of the end of the last full preceding calendar month) the integration of EMCC with DTCC. The adjusted book value of DTCC will equal book value less the smaller of (i) the retained earnings of DTCC attributable to NSCC's retained earnings at the time of the integration of NSCC and DTC with DTCC in 1999 or (ii) the retained earnings of DTCC attributable to the retained earnings of NSCC at the time of (or as of the last full preceding calendar month) the integration of EMCC with DTCC.

<sup>8</sup> In addition and subject to the effectiveness of the Exchange Offer, holders of Class B shares will be provided with the limited right to vote for the election of EMCC Directors.

<sup>1</sup> 15 U.S.C. 78s(b)(1).