of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, NW, Washington, DC 20549.

Dated: February 7, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3628 Filed 2–13–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Extension of Existing Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–13, SEC File No. 270–27, OMB Control No. 3235–0035.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval. The Code of Federal Regulations citation to this collection of information is the following rule: 17 CFR 240.17a–13 Quarterly Security Counts to be Made by Certain Exchange Members, Brokers, and Dealers.

Rule 17a–13(b) generally requires that at least once each calendar quarter, all registered brokers and dealers physically examine and count all securities held and account for all other securities not in their possession, but subject to the broker-dealer's control or direction. Any discrepancies between the broker-dealer's securities count and the firm's records must be noted and, within seven days, the unaccounted for difference must be recorded in the firm's records. Rule 17a–13(c) provides that under specified conditions, the securities counts, examination and verification of the broker-dealer's entire list of securities may be conducted on a cyclical basis rather than on a certain date. Although Rule 17a–13 does not require filing a report with the Commission, security count discrepancies must be reported on Form X–17a–5 as required by Rule 17a–5. Rule 17a–13 exempts broker-dealers that limit their business to the sale and redemption of securities of registered investment companies and interests or participation in an insurance company separate account and those who solicit accounts for federally insured savings and loan associations, provided that such persons promptly transmit all funds and securities and hold no customer funds and securities.

The information obtained from Rule 17a–13 is used as an inventory control device to monitor a broker-dealer's ability to account for all securities held, in transfer, in transit, pledged, loaned, borrowed, deposited or otherwise subject to the firm's control or direction. Discrepancies between the securities counts and the broker-dealer's records alert the Commission and the Self Regulatory Organizations (''SROs'') to those firms having problems in their back offices.

Because of the many variations in the amount of securities that broker-dealers are accountable for, it is difficult to develop a meaningful figure for the cost of compliance with Rule 17a–13. Approximately 91% of all registered broker-dealers are subject to Rule 17a–13. Accordingly, approximately 6,579 broker-dealers have obligations under the Rule, and the average time it would take each broker-dealer to comply with the Rule is 100 hours per year, for a total estimated annualized burden of 657,900 hours. It should be noted that a significant number of firms subject to Rule 17a–13 have minimal obligations under the Rule because they do not hold securities. It should further be noted that most broker-dealers would engage in the activities required by Rule 17a–13 even if they were not required to do so.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: February 7, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3629 Filed 2–13–02; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25413; 812–12474]

Maxim Series Fund, Inc., et al.; Notice of Application

February 8, 2002.

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

ACTION: Notice of an application under section 6(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: GW Capital Management, LLC (the ''Manager''), Maxim Series Fund, Inc. (''Maxim'') and Orchard Series Fund (''Orchard'') (Maxim and Orchard each, a ''Fund'' and together, the ''Funds'') request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval.

Applicants: Manager, Maxim and Orchard.

Filing Dates: The application was filed on March 9, 2001 and amended on October 5, 2001 and January 14, 2002.

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 March 5, 2002, and should be accompanied by proof of service on the 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 Beverly A. Byrne, Maxim Series Fund, Inc., 8525 East Orchard Road, Greenwood Village, CO 80111.

FOR FURTHER INFORMATION CONTACT: Stacy L. Fuller, Senior Counsel, at (202) 942–0553, or Nadya B. Roytblat, Assistant Director, 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 at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102, telephone (202) 942–8090.

Applicants' Representations

1. Maxim is a Maryland corporation registered under the Act as an open-end management investment company. Maxim is organized as a series company and currently has 36 separate series. Orchard is a Delaware business trust registered under the Act as an open-end management investment company. Orchard is organized as a series company and currently has six separate series. Each series (''Portfolio'') of Maxim and Orchard has its own distinct investment objectives, policies and restrictions. Shares of Maxim's Portfolios are offered for sale to qualified pension plans and through registered separate accounts as funding vehicles for variable annuity and variable life insurance contracts issued by insurance companies. Shares of Orchard's Portfolios are sold directly to the public, to pension plans and through unregistered separate accounts.[1]

2. The Manager, a Colorado limited liability company and wholly owned subsidiary of Great West Life Insurance and Annuity Company, is registered under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). The Funds, on behalf of each Portfolio, have each entered into an investment advisory agreement with the Manager (each a ''Management Agreement''), pursuant to which the Manager serves as the investment adviser to the Portfolios. Each Management Agreement has been approved by, in the case of Maxim, a majority of the Fund's board of directors, and in the case of Orchard, a majority of the Fund's board of trustees (each a ''Board'' and together the ''Boards''), including a majority of the directors or trustees (the ''Directors'') who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), of the Fund or the Manager, as well as by each Fund's initial shareholder(s). Under the terms of the Management Agreements, the Manager, subject to oversight by the Boards, has supervisory responsibility for the investment program of each Fund.

3. The Funds and the Manager have entered or will enter into investment advisory agreements (each, an ''Advisory Agreement'') with subadvisers (each, an ''Adviser'') for each of the Portfolios. Under the Advisory Agreements, each Adviser, subject to general supervision by the Manager and the Board, has discretionary authority to invest the portion of a Portfolio's assets allocated to it by the Manager. Currently, Maxim has Advisers for 12 of its 36 Portfolios and Orchard has an Adviser for one of its six Portfolios. Unless exempt from registration, each Adviser is, and any future Adviser will be, registered under the Advisers Act. The Funds pay the Manager a fee based on the value of the average daily net assets of each Portfolio in the Fund.

4. The Manager monitors the Portfolios and the Advisers and makes recommendations to the Boards regarding allocation, and reallocation, of assets between Advisers and is responsible for recommending the hiring, termination and replacement of Advisers. The Manager recommends Advisers based on a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives. Each Adviser will be paid by the Manager out of the fees received by the Manager from the Funds.

5. Applicants request an order to permit the Manager to enter into and materially amend Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to an Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Funds or the Manager, other than by reason of serving as an Adviser to one or more of the Portfolios (''Affiliated Adviser''). None of the current Advisers is an Affiliated Adviser.

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 the company's outstanding voting securities. Rule 18f–2 under the Act provides, in relevant part, that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

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 under the Act to permit them to enter into and materially amend Advisory Agreements without shareholder approval.

3. Applicants assert that the shareholders are relying on the Manager's experience to select one or more Advisers best suited to achieve a Portfolio's desired investment objectives. Applicants assert that, from the perspective of the investor, the role of the Advisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of each Advisory Agreement would impose costs and unnecessary delays on the Portfolios, and may preclude the Manager from acting promptly in a manner considered advisable by the Board. Applicants note that the Management Agreements 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 any order granting the requested relief will be subject to the following conditions:

1. Before a Portfolio may rely on the requested order, the operation of the Portfolio in the manner described in the application will be approved by a majority of the Portfolio's outstanding voting securities (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the owners of variable annuity

[1] The applicants request that any relief granted pursuant to the application also apply to future Portfolios of the Funds and any other registered open-end management investment companies and their series that (a) are advaised by the Manager or any entity controlling, controlled by, or under common control with the Manager; (b) are managed in a manner consistent with this application; and (c) comply with the terms and conditions in the application (together, the ''Future Investment Companies''). The Funds are the only existing investment companies that currently intend to rely on the requested order. Applicants state that if the name of any Portfolio or Future Investment Company contains the name of an Adviser, the name of the Adviser will be preceded by the name of the Manager.

contracts and variable life insurance policies (''Owners'') who have allocated assets to that sub-account) or, in the case of a Portfolio whose public shareholders (or Owners through a sub-account of a registered separate account) purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder(s) before offering shares of that Portfolio to the public (or to Owners through a sub-account of a registered separate account).

2. Each Portfolio relying on the requested order will hold itself out to the public as employing the management structure described in the application. In addition, each Portfolio will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. Such prospectus will prominently disclose that the Manager has the ultimate responsibility (subject to oversight by the Board) to oversee the Advisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of any new Adviser, the Manager will furnish shareholders (or, if the Portfolio serves as a funding medium for a sub-account of a registered separate account, Owners who have allocated assets to that sub-account) all information about the new Adviser that would be included in a proxy statement, including any change in such disclosure caused by the addition of the new Adviser. The Manager will satisfy this condition by providing shareholders (or Owners) with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

4. The Manager will not enter into an advisory agreement with any Affiliated Adviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, then by the Owners who have allocated assets to that sub-account).

5. At all times, a majority of each Board will be Independent Directors, and the nomination of new or additional Independent Directors will be at the discretion of the then-existing Independent Directors.

6. When an Adviser change is proposed for a Portfolio with an Affiliated Adviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Board minutes, that the change is in the best interests of the Portfolio and its shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Portfolio and the Owners who have allocated assets to that sub-account), and does not involve a conflict of interest from which the Manager or the Affiliated Adviser derives an inappropriate advantage.

7. The Manager will provide general management services to each Fund and Portfolio, including overall supervisory responsibility for the general management and investment of each Portfolio's assets, and, subject to review and approval by the Board, will: (a) Set each Portfolio's overall investment strategies, (b) evaluate, select, and recommend Advisers to manage all or part of a Portfolio's assets; (c) allocate and, when appropriate, reallocate a Portfolio's assets among multiple Advisers, (d) monitor and evaluate the performance of the Advisers, and (e) implement procedures reasonably designed to ensure that the Advisers comply with each Portfolio's investment objectives, policies, and restrictions.

8. No Director or officer of a Fund, or director, manager or officer of the Manager will own, directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in any Adviser, except for: (a) Ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either an Adviser or an entity that controls, is controlled by or under common control with an Adviser.

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

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–3569 Filed 2–13–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45413; File No. SR–Amex–2001–76]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Obligations of Specialists and Registered Options Traders

February 7, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Amex filed amendments to the proposed rule change on December 17, 2001[3] and January 18, 2002.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rules 950, 958 and 958A pertaining to the obligations of specialists and registered options traders. The text of the proposed rule change is set forth below. Additions are in italics; deletions are in brackets.

American Stock Exchange, LLC; Proposed Rule Change

Section 5. Floor Rules Applicable to Options

Rule 950 Rules of General Applicability

(a) through (m) No change.

(n) The provisions of Rule 170 and Commentaries .03 and .04 thereto, shall apply to exchange option transactions.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Amex submitted a new Form 19b–4, which replace and supersedes the original filing in its entirety (''Amendment No. 1'').

[4] Letter from Clarie P. McGrath, Vice President and Deputy General Counsel, Amex, to Elizabeth King, Associate Director, Division of Market Regulation (''Division''), Commission, dated January 16, 2002 (''Amendment No. 2''). Amendment No. 2 amends proposed Amex Rules 950 and 958 to clarify that ''lage order'' means order larger than the size communicated or disseminated pursuant to Exchange Rule 958 or larger than the Exchange's auto-ex eligible size. Amendment No. 2 also make a technical correction to proposed Amex Rule 958(h)(iii).