

regarding measures of program performance and the use of such measures in making management and budget decisions. Council members will advise OMB regarding the particular processes and means utilized to assess the effectiveness of Federal programs and initiatives. Council members will draw upon their expertise in creating, implementing and evaluating performance measurement standards and will make recommendations regarding the types of measures and benchmarking systems that departments and agencies can employ most effectively to track program performance.

The Council's proposed functions are essential to OMB's successful implementation of an effective system of program evaluation. The independent expert advice and recommendations sought through this Council cannot be provided internally by OMB, by another existing committee, or by other means such as a public hearing.

**Balanced Membership Plans:** The Council shall consist of approximately six members. Every effort shall be made to select Council members who are outstanding in their professional field and who are objective. A balance is needed and individuals with expertise in performance measurement are essential. In selecting Council members, weight is given to viewpoint diversity, expertise in performance measurement, and professional qualifications.

**Duration:** The Council shall exist for nine months from the date of the Charter, unless earlier renewed.

**Designated Federal Officer:** Mr. Thomas M. Reilly, Chief, Public Health Branch, Executive Office of the President; Office of Management and Budget, 7002 New Executive Office Building, Washington, DC 20503. Telephone: 202-395-4926; Facsimile: 202-395-5648; Email: [Thomas\\_Reilly@omb.eop.gov](mailto:Thomas_Reilly@omb.eop.gov).

Dated: May 21, 2002.

**Mitchell E. Daniels, Jr.,**

*Director, Office of Management and Budget.*  
[FR Doc. 02-13308 Filed 5-28-02; 8:45 am]

**BILLING CODE 3110-01-P**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 25591; 812-12346]**

### USAA Mutual Fund, Inc., et al.; Notice of Application

May 22, 2002.

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

**ACTION:** Notice of application for an exemption under section 6(c) of the Investment Company Act of 1940 ("Act") from section 15(a) of the Act and rule 18f-2 under the Act.

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

**APPLICANTS:** USAA Mutual Fund, Inc. ("Company"), and USAA Investment Management Company ("IMCO").

**FILING DATES:** The application was filed on November 30, 2000, and amended on May 21, 2002.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 17, 2002, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, 9800 Fredericksburg Road, A-03-W, San Antonio, Texas 78288.

**FOR FURTHER INFORMATION CONTACT:** Keith A. Gregory, Senior Counsel, at (202) 942-0611, or Mary Kay Frech, Branch Chief, 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 from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel. (202) 942-8090).

#### Applicants' Representations

1. The Company is a Maryland corporation registered under the Act as an open-end management investment company. The Company currently is comprised of eighteen series (each, a "Portfolio," and together, the "Portfolios"), each with its own investment objectives, policies, and

restrictions.<sup>1</sup> IMCO serves as the investment adviser to the Portfolios and is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). IMCO is a wholly owned indirect subsidiary of United Services Automobile Association, a diversified financial services institution.

2. The Company, on behalf of each Portfolio, has entered into investment advisory or investment management agreements with IMCO (collectively, the "Management Agreements") that were approved by the Company's board of directors ("Board"), including a majority of the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Company or the Manager ("Independent Directors"), and each Portfolio's shareholders.

3. The Management Agreements permit the Manager to enter into separate investment advisory agreements ("Sub-Advisory Agreements") with sub-advisers ("Sub-Advisers") to whom the Manager may delegate responsibility for providing investment advice and making investment decisions for a Portfolio. The Manager monitors and evaluates the Sub-Advisers and recommends to the Board their hiring, termination, and replacement. Each Sub-Adviser is, or will be, an investment adviser registered, or exempt from registration, under the Advisers Act. The Manager compensates the Sub-Advisers out of the fees paid to the Manager by the Portfolio. Applicants request relief to permit the Manager to enter into and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund or the Manager, other than by reason of serving as a Sub-Adviser to one or more of the Portfolios ("Affiliated

<sup>1</sup> The Applicants request that any relief granted pursuant to the application apply to each existing and future Portfolio of the Company and each existing and future series (included in the Term "Portfolios") of any other existing or future registered open-end management investment company that: (a) Is advised by IMCO or any entity controlling, controlled by, or under common control with IMCO (any such entity together with IMCO, the "Manager"); (b) is managed in a manner consistent with the application; and (c) complies with the terms and conditions in the application (together with the Company, a "Fund"). The Company is the only existing registered open-end management investment company that currently intends to rely on the requested order. If the name of any Portfolio contains the name of any Sub-Adviser (as defined below), the Sub-Adviser's name will be preceded by the name of the Manager.

Sub-Adviser"). None of the current Sub-Advisers is an Affiliated Sub-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 a majority of the investment company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the Act, or from any rule thereunder, to the extent that the exemption is necessary or 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. Applicants state that the requested relief meets this standard for the reasons discussed below.

3. Applicants assert that the Portfolio's shareholders rely on the Manager to select the Sub-Advisers best suited to achieve a Portfolio's investment objectives. Applicants assert that, from the perspective of the investor, the role of the Sub-Advisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of each Sub-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 also note that the Management Agreements will remain 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 as described in the application will be approved by the vote of a majority of the Portfolio's outstanding voting securities, as defined in the Act, or in the case of a Portfolio whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2, by the initial shareholder(s) before the shares of such Portfolio are offered to the public.

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

3. The Manager will provide general management and administrative services to each Fund and its Portfolios, 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: (i) Set each Portfolio's overall investment strategies; (ii) evaluate, select and recommend Sub-Advisers to manage all or part of a Portfolio's assets; (iii) when appropriate, allocate and reallocate a Portfolio's assets among multiple Sub-Advisers; (iv) monitor and evaluate the performance of Sub-Advisers; and (v) implement procedures reasonable designed to ensure that the Sub-Advisers comply with the relevant Portfolio's investment objectives, policies and restrictions.

4. At all times, a majority of the 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.

5. The Manager will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio.

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

7. No director or officer of a Fund or director 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 a Sub-Adviser, except for: (i) Ownership of interests in the

Manager or any entity that controls, is controlled by, or is under common control with the Manager, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

8. Within 90 days of the hiring of any new Sub-Adviser, the Manager will furnish shareholders all information about the new Sub-Adviser that would be included in a proxy statement. Such information will include any change in such disclosure caused by the addition of a new Sub-Adviser. To meet this condition, the Manager will provide shareholders 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.

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

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

[FR Doc. 02-13341 Filed 5-28-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice Before Waiver With Respect to Land at Carroll County Regional Airport, Westminster, MD

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent of waiver with respect to land.

**SUMMARY:** The FAA is publishing notice of proposed release of approximately 12 acres of land at the Carroll County Regional Airport, Westminster, Maryland. There are no impacts to the Airport and the land is not needed for airport development as shown on the Airport Layout Plan. Fair Market Value of the land will be paid to the Airport sponsor, and used for Airport purposes.

**DATES:** Comments must be received on or before June 28, 2002.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Terry J. Page, Manager, FAA Washington Airports District Office, P.O. Box 16780, Washington, DC 20041-6780.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Steve Brown,