

agency to (1) accurately identify Qualified Railroad Retirement Beneficiaries; (2) make necessary adjustments required under state law in public aid payments due to cost of living or other adjustments in RRB annuities; and (3) coordinate benefits of dually eligible Medicare and Medicaid beneficiaries and to identify individuals who are eligible for Part B Medicare and not enrolled in order to enroll such individuals in the State Buy-In program.

Authority for Conducting the Match: 42 CFR 435.940 through 435.965.

Categories of Records and Individuals Covered: All beneficiaries under the Railroad Retirement Act who have been identified by a state as a recipient of public aid will have information about their RRB benefits and Medicare enrollment furnished to the state agency.

Inclusive Dates of the Matching Program: It is estimated that the first of these matches will commence in November 1996, and will run for the full 18 months of the agreement.

The notice we are giving here is in addition to any individual notice.

A copy of this notice will be furnished to both Houses of Congress and the Office of Management and Budget.

Dated: October 31, 1996.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96-28710 Filed 11-7-96; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-22312; File No. 812-10086]

First Variable Life Insurance Company, et al.

November 1, 1996.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: First Variable Life Insurance Company ("First Variable"), First Variable Annuity Fund A ("Fund A"), and First Variable Annuity Fund E ("Fund E").

RELEVANT ACT SECTIONS: Order requested pursuant to Section 26(b) approving the proposed substitution of securities.

SUMMARY OF APPLICATION: Applicants seek an order approving the proposed substitution of securities issued by the Prime Money Fund of the Insurance

Management Series for certain securities issued by the Cash Management Portfolio of the Variable Investors Series Trust ("Cash Management Portfolio") which currently are held by Fund A and Fund E (collectively referred to herein as "Funds") to fund certain variable annuity contracts ("Contracts") issued by First Variable.

FILING DATE: The application was filed on April 16, 1996, and amended and restated on October 4, 1996.

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 Secretary of the SEC 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 November 26, 1996, 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 Secretary of the SEC.

ADDRESSES: SEC, Secretary, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o Arnold R. Bergman, Vice-President—Legal and Administration, First Variable Life Insurance Company, 10 Post Office Square, 12th Floor, Boston, MA 01209. Copy to: Raymond A. O'Hara III, Blazzard, Grodd & Hasenauer, P.C., P.O. Box 5108, Westport, CT 06881.

FOR FURTHER INFORMATION CONTACT:

Edward P. Macdonald, Staff Attorney, or Patrice M. Pitts, Branch Chief (Office of Insurance Products), Division of Investment Management, at (202) 942-0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. First Variable is a stock life insurance company which was organized under the laws of the State of Arkansas in 1968. The Company is principally engaged in the annuity business and is licensed in 49 states, the District of Columbia and the U.S. Virgin Islands. First Variable is not licensed in the State of New York.

2. Fund A is a separate account of First Variable registered under the 1940 Act as a unit investment trust and established for the purpose of funding

certain variable annuity contracts, including the Contracts.

3. Fund E is a separate account of First Variable registered under the 1940 Act as a unit investment trust and established for the purpose of funding certain variable annuity contracts, including the Contracts.

4. The investment objectives of the Cash Management Portfolio are to preserve shareholder capital, to maintain liquidity, and to achieve maximum current income (consistent with those objectives) by investing exclusively in a diversified portfolio of short-term money market securities. First Variable Advisory Corp. ("Adviser"), a wholly-owned subsidiary of First Variable, is the investment adviser for the Cash Management Portfolio. The Adviser has retained Federated Investment Counselling to serve as the sub-adviser for the Cash Management Portfolio. The Adviser receives a management fee of .50% of the Cash Management Portfolio's net assets for the first \$70,000,000 of Portfolio assets.

5. Many of the Cash Management Portfolio's expenses (such as those for accounting and outside auditors) are significant relative to the Portfolio's small asset base. Since the inception of the Cash Management Portfolio, the Adviser has agreed to reimburse operating expenses (exclusive of management fees) in excess of .25% of the Cash Management Portfolio's average net assets. The Cash Management Portfolio has not grown rapidly enough to absorb its actual expenses, and the Adviser continues to reimburse it voluntarily. Over the last three years, the Adviser has reimbursed \$280,161 in operating expenses for the Cash Management Portfolio and earned \$140,936 in fees for managing the Cash Management Portfolio. Neither state nor federal law requires expense reimbursement, and the Adviser is likely to cease to make expense reimbursements in the future.

6. The investment objectives of the Prime Money Fund of Insurance Management Series ("IMS Prime Money Fund") are substantially similar to those of the Cash Management Portfolio—i.e., to preserve shareholder capital, to maintain liquidity, and to achieve maximum current income (consistent with those objectives) by investing exclusively in a diversified portfolio of short-term money market securities. Federated Advisers ("Federated"), an affiliate of Federated Investment Counselling, is the investment adviser for the Prime Money Fund, and the investment strategies employed by Federated as the investment adviser to

Prime Money Fund are substantially similar to those employed by Federated Investment Counselling as sub-adviser to the Cash Management Portfolio. In addition, the portfolio manager for the Prime Money Fund is the individual currently responsible for the day to day investment management of the Cash Management Portfolio. The maximum investment advisory fee payable to Federated, .50% of net asset value, currently is being waived.

7. The IMS Prime Money Fund currently offers its shares to six insurance companies and their separate accounts funding variable annuity and variable life insurance contracts. Applicants have determined that there is a great likelihood that IMS Prime Money Fund will be able to achieve economies of scale because of the anticipated inflow of cash from a greater number of sources. The assets of IMS Prime Money Fund have grown from \$549,950 on January 1, 1995, to \$17,738,508 as of December 31, 1995. Over the same period, the Cash Management Portfolio grew from \$8,198,345 to \$10,095,723. The expense ratio for the IMS Prime Money Fund steadily declined over this period, while the expense ratio of the Cash Management Portfolio remained relatively constant. During the first two months of 1996, the expense ratio (before reimbursement) of the IMS Prime Money Fund declined further, from 2.31% to 1.55%, while the Cash Management Portfolio expense ratio (before reimbursement) during the same period only declined from 1.72% to 1.68%. Applicants have determined that these trends are likely to continue, and believe that the investment opportunities available to larger money-market funds, such as IMS Prime Money Fund, have historically resulted in larger yields than those obtained by smaller money-market funds, such as the Cash Management Portfolio.

8. In the registration statements filed by the Funds, and under the terms of the Contracts, First Variable expressly retained the right to eliminate sub-accounts, combine two or more sub-accounts, or substitute one or more new underlying mutual funds or portfolios for others in which one or more Fund sub-accounts are invested.

9. Applicants propose to substitute shares of the IMS Prime Money Fund for shares of the Cash Management Portfolio held in sub-accounts of the Funds, and to cease offering shares of the Cash Management Portfolio to Contract owners, in the following manner.

a. The prospectuses for the Contracts have been or will be amended via post-

effective amendments and/or prospectus supplements, to describe the proposed substitution as set forth in this application.

b. Affected Contract owners will not incur any fees or charges as a result of the substitution including any applicable brokerage, nor will their rights or the obligations of First Variable under the Contracts be altered in any way. In particular, the proposed substitution will not be considered a "transfer" for purposes of calculating any transfer fee that may otherwise be payable under a Contract.

c. The proposed substitution would be affected by a simple accumulation unit exchange at net asset value, so that the total amount of the shares of the Cash Management Portfolio would be redeemed by First Variable at net asset value per share, calculated in accordance with Rule 22c-1 under 1940 Act, and the same dollar amount invested by First Variable in shares of the IMS Prime Money Fund, also calculated in accordance with Rule 22c-1.

d. If the Commission approves the proposed substitution, Contract owners will receive prior written notice of the substitution and a prospectus describing all of the then available investment options. The date of substitution will be within thirty (30) days of the latest of: (1) the effective date of the post-effective amendments (referred to in "a." above); (2) the granting of the requested exemptive relief; and (3) approval, if required, of the state insurance department of the jurisdiction concerned. During such thirty (30) day period, Contract owners may transfer Contract values from the sub-accounts of the Funds holding shares of the Cash Management Portfolio to other investment options then available under a Contract without the imposition of any transfer fee.

Applicants' Legal Analysis and Conditions

1. Section 26(b) of the 1940 Act provides, in pertinent part, that "[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution." The purpose of Section 26(b) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate the shares of a particular issuer, and to prevent unscrutinized substitutions which might, in effect, force shareholders dissatisfied with the substituted security to redeem their

shares, thereby possibly incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Section 26(b) affords protection to investors by preventing a depositor or trustee of a unit investment trust holding the shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

2. Applicants assert that the purposes, terms and conditions of the proposed substitution are consistent with the principles and purposes of Section 26(b) and do not entail any of the abuses that Section 26(b) is designed to prevent. Because the assets invested in the Cash Management Portfolio are, and are likely in the future to be, of insufficient size to promote consistent investment performance or to reduce operating expenses, Applicants further assert that the proposed substitution is an appropriate solution to the limited Contract owner interest or investment in the Cash Management Portfolio.

3. The proposed substitution will not result in the type of costly forced redemption that Section 26(b) was intended to guard against, and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act for the following reasons.

a. The proposed substitution is of shares of the Cash Management Portfolio whose objectives, policies and restrictions are substantially similar to those of the IMS Prime Money Fund so as to continue fulfilling Contract owners' objectives and risk expectations.

b. The investment advisory services and the management fees of the IMS Prime Money Fund make it a reasonable substitute for Contract owners currently invested in the Cash Management Portfolio.¹

c. The proposed substitution will be at net asset value of the respective shares, without the imposition of any transfer or similar charge.

d. Affected Contract owners will not incur any fees or charges as a result of the proposed substitution, nor will their rights or the obligations of First Variable under the Contracts be altered in any way.

e. Contract owners will be given written notice of the substitution, and an opportunity (at least thirty (30) days)

¹ Applicants assert that it is reasonable to anticipate that Contract owners will not suffer detriment from increases in the levels of unreimbursed advisory fees and other expenses of the IMS Prime Money Fund as compared to those anticipated for the Cash Management Portfolio.

to allocate Contract values among the other investment options in their Contracts.

f. The proposed substitution will not be considered a "transfer" for purposes of calculating any transfer fee that may otherwise be payable under a Contract.

g. The proposed substitution will not alter the tax benefits to the Contract owners.

h. Contract owners may choose to withdraw amounts credited to them following the proposed substitution, subject to any applicable deferred sales charge and other restrictions on withdrawal rights currently imposed under their respective contracts.

i. The number of separate accounts investing in the IMS Prime Money Fund make it more likely to achieve economies of scale in operations more quickly than the Cash Management Portfolio. Moreover, Applicants do not expect, and do not believe it is reasonable to expect, that the Adviser will remain forever willing and able to spend large sums of money to maintain the favorable expense ratio that the Cash Management Portfolio has enjoyed so far.

Conclusion

For the reasons set forth above, Applicants represent that the order requested approving the proposed substitution is necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act and should be granted.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 96-28760 Filed 11-7-96; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 22311; 812-10384]

Freedom Mutual Fund, et al.; Notice of Application

November 1, 1996.

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

ACTION: Notice of Application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Freedom Mutual Fund ("Freedom Mutual"), on behalf of Freedom Cash Management Fund and Freedom Government Securities Fund ("Freedom Funds"), Freedom Group of Tax Exempt Funds ("Freedom Group"),

on behalf of Freedom Tax Exempt Money Fund and Freedom California Tax Exempt Money Fund ("Group Funds"), FundManager Trust (together with Freedom Mutual and Freedom Group, "Trusts"), on behalf of FundManager Aggressive Growth Fund, FundManager Growth Fund, FundManager Growth & Income Fund, FundManager Bond Fund and FundManager Managed Total Return Fund (together with the Freedom Funds and the Group Funds, "Funds"), and Freedom Capital Management Corporation ("Adviser").

RELEVANT ACT SECTION: Exemption requested pursuant to section 6(c) for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order permitting implementation, without formal shareholder approval, of new investment advisory agreements between the Trusts and the Adviser with respect to each Fund for an interim period of not more than 120 days, beginning on the date on which the Adviser's parent is sold to JHFSC Acquisition Corp. and ending no later than March 31, 1997. The requested order also would permit the Adviser to receive all fees earned under the New Agreements following shareholder approval.

FILE DATE: The application was filed on October 8, 1996. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

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 November 22, 1996, 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, N.W., Washington, D.C. 20549. Applicants, One Beacon Street, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Harry Eisenstein, Staff Attorney, at (202) 942-0552, or Mercer E. Bullard, 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.

Applicants' Representations

1. Each Trust is an open-end management investment company registered under the Act. Freedom Mutual and Freedom Group are Massachusetts business trusts, and FundManager Trust is a Delaware business trust. The Adviser, a registered investment adviser under the Investment Advisers Act of 1940, manages the assets of each Fund pursuant to an investment advisory agreement with each Trust ("Existing Agreement"). The Adviser is a wholly owned subsidiary of John Hancock Freedom Securities Corporation ("JHFSC"), which is wholly owned by John Hancock Subsidiaries, Inc. ("Hancock Subsidiaries").

2. Under a contribution agreement ("Contribution Agreement") dated October 4, 1996, among Hancock Subsidiaries, JHFSC Acquisition Corp. ("Newco"), Thomas H. Lee Equity Fund III, L.P. ("Lee"), and SCP Private Equity Partners, L.P. ("SCP"), Hancock Subsidiaries will contribute 100% of the issued and outstanding shares of capital stock of JHFSC to Newco in exchange for \$180,000,000 (subject to reduction to the extent of certain distributions made prior to closing) and 4.999% of the issued and outstanding capital stock of Newco ("Transaction"). As a result of the Transaction, Lee, a Massachusetts limited partnership, and SCP, a Delaware limited partnership, will hold a majority of the stock of Newco. JHFSC will become a wholly-owned subsidiary of Newco, and the Adviser will remain a wholly-owned subsidiary of JHFSC. Applicants expect to consummate the Transaction on November 26, 1996, assuming the necessary approvals are received or waived.

3. Applicants request an exemption to permit implementation, without shareholder approval, of new advisory agreements between the Trusts and the Adviser with respect to each Fund ("New Agreements"). The requested exemption would cover an interim period of not more than 120 days beginning on the date of the Transaction and continuing through the date a New Agreement is approved or disapproved by the shareholders of the respective Funds (but in no event later than March 31, 1997) ("Interim Period"). The New Agreements are identical to the Trusts' Existing Agreements, except for their effective dates and, with respect to the Freedom Mutual Fund and the Freedom