

*Article IV*

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

*Article V*

This Agreement shall not affect the authority of the Commission under Subsection 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

*Article VI*

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that Commission and State programs for protection against hazards of radiation will be coordinated and compatible. The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of byproduct material covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

*Article VII*

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

*Article VIII*

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j(2) of the Act, temporarily suspend all or part of this Agreement if, in the judgement of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act which requires a State program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

*Article IX*

This Agreement shall become effective on [TBA], and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Dated at Rockville, Maryland, this \_\_\_\_\_th day of \_\_\_\_\_, 2000.

For the United States Nuclear Regulatory Commission.

• \_\_\_\_\_ Chairman.

Dated at Oklahoma City, Oklahoma this \_\_\_\_\_th day of \_\_\_\_\_, 2000.

For the State of Oklahoma.

• \_\_\_\_\_ Governor.

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24492; 812-12082]

### Sit Large Cap Growth Fund, Inc., et al.; Notice of Application

June 7, 2000.

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

**ACTION:** Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

#### SUMMARY OF THE APPLICATION:

Applicants request an order to permit an

open-end management investment company to acquire all of the assets stated liabilities of a series of another registered open-end management investment company. Because of certain affiliations, applicants may not rely on rule 17a-8 under the Act.

**APPLICANTS:** Sit Large Cap Growth Fund, Inc. ("Large Cap Fund"), Sit Mutual Funds, Inc. (Sit Funds) and Sit Investment Associates, Inc. ("Adviser").

**FILING DATES:** The application was filed on April 27, 2000. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

**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 June 29, 2000, 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, DC 20549-0609. Applicants, c/o Kathleen L. Prudhomme, Esq., Dorsey & Whitney LLP, Pillsbury Center South, 220 South Sixth Street, Minneapolis, Minnesota 55402.

**FOR FURTHER INFORMATION CONTACT:** Susan K. Pascocello, Senior Counsel, at (202) 942-0674, or Michael W. Mundt, Branch Chief, at (202) 942-0578 (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 Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549-0102 (telephone (202) 942-8090).

#### Applicant's Representations

1. Large Cap Fund and Sit Funds, both Minnesota corporations, are registered under the Act as open-end management investment companies. Large Cap Fund offers its shares in a single series, and Sit Funds offers six series, including Sit Regional Growth

Fund ("Regional Fund," and together with Large Cap Fund, the "Funds"). The Adviser, a Minnesota corporation, serves as investment adviser to the Funds and is registered as an investment adviser under the Investment Advisers Act of 1940. The Adviser is record holder of more than 5% of the outstanding shares of Regional Fund.

2. On February 20, 2000, the boards of directors of each Funds (together, the "Boards"), including the directors who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Directors"), unanimously approved an agreement and plan of reorganization (the "Reorganization Agreement") under which Large Cap Fund will acquire the assets and liabilities of Regional Fund in exchange for Large Cap Fund shares (the "Reorganization"). The Large Cap Fund shares exchanged will have an aggregate net asset value equal to the aggregate net asset value of the Regional Fund's shares determined at the effective time of the Reorganization (the "Effective Time"), currently anticipated to occur on June 30, 2000. The net asset value per share of each Fund's shares will be determined in the manner set forth in the respective Fund's current prospectus and statement of additional information. At the Effective Time, Regional Fund will liquidate and distribute *pro rata* to its shareholders the Large Cap Fund shares.

3. Applicants state that the investment objectives of Large Cap Fund are identical to those of Regional Fund. Neither Large Cap Fund nor Regional Fund imposes any sales charges or distribution related fees. No sales charges will be imposed upon Regional Fund shareholders in connection with the Reorganization. The Adviser will pay the expenses of the Reorganization.

4. The Boards, including all of the Independent Directors, determined that the Reorganizations is in the best interests of each Fund, and that the interests of the existing shareholders of each Fund would not be diluted as a result of the Reorganization. In assessing the Reorganization, the Boards considered various factors, including: (a) The compatibility of each Fund's investment objectives and principal investment strategies; (b) the terms and conditions of the Reorganization; (c) the expense ratio of each Fund; and (d) the tax-free nature of the Reorganization.

5. The Reorganization is subject to a number of conditions, including that: (a) The Reorganization Agreement is approved by the Regional Fund shareholders; (b) the Funds receive an opinion of counsel that the

Reorganization will be tax-free; and (c) applicants receive exemptive relief from the Commission as requested in the application. The Reorganization Agreement may be terminated and the Reorganization abandoned at any time prior to the Effective Time if either Board determines that circumstances have changed to make the Reorganization inadvisable. Applicants agree not to make any material changes to the Reorganization Agreement without prior Commission approval.

6. A registration statement on Form N-14 containing a combined prospectus/proxy statement was filed with the Commission on April 10, 2000, and became effective on May 10, 2000. Proxy solicitation materials were mailed to Regional Fund's shareholders on May 23, 2000. A special meeting of Regional Fund shareholders is scheduled for June 15, 2000.

#### Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers, they may not be able to rely on rule 17a-8 in connection with the Reorganization. Applicants state that the Adviser holds of record more than 5% of the outstanding securities of Regional Fund, and holds

or shares voting power and/or investment discretion with respect to a portion of these shares.

4. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that 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, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(b) of the Act. Applicants state that the terms of the Reorganization are reasonable and fair and do not involve overreaching. Applicants state that the investment objectives of Regional Fund and Large Cap Fund are identical. Applicants also state that the Boards, including all of the Independent Directors, have determined that the participation of each Fund in the Reorganization is in the best interests of each Fund and that such participation will not dilute the interests of shareholders of each Fund. In addition, Applicants state that the Reorganization will be based on the Funds' relative net asset values.

For the 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. 34-42824; File No. SR-CBOE-99-40]

#### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Operation of Retail Automatic Execution System; Nine-Month Pilot Program

May 25, 2000.

#### I. Introduction

On July 29, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or