

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

Margaret H. McFarland,

Deputy Secretary.

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[Rel. No. IC-21314; 812-9520]

Merrill, Lynch, Pierce, Fenner & Smith Incorporated, et al.

August 18, 1995.

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

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

APPLICANTS: Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), Smith Barney Inc., Prudential Securities Incorporated, Dean Witter Reynolds Inc., and PaineWebber Incorporated (the "Sponsors"); and Defined Asset Funds—Municipal Investment Trust Fund, Liberty Street Trust Municipal Monthly Payment Series, Defined Asset Funds—Municipal Income Fund ("DAF-MIF"), and Municipal Investment Trust Fund (the "Trusts").

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) of the Act that would exempt applicants from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit the trustees of certain unit investment trusts to place orders to sell municipal bond portfolio securities of the trusts with the trust sponsors, who then will serve as introducing dealers. As introducing dealers, the sponsors will retain a clearing broker to sell the securities for the trusts through a wire service.

FILING DATE: The application was filed on March 13, 1995 and amended on July 20, 1995 and August 17, 1995.

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 September 12, 1995 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 may request notification of a

hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Merrill Lynch, Pierce, Fenner & Smith Incorporated, Unit Investment Trusts, P.O. Box 9051, Princeton, New Jersey 08543-9051.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942-0573, or Robert A. Robertson, 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 series of the Trusts is a separate unit investment trust created under New York law by a trust indenture and agreement ("Trust Agreement") among one or more of the Sponsors, a trustee ("Trustee"), and an evaluator. The investment objective of each series is receipt of interest income exempt from federal income taxation through investment in a fixed portfolio of interest-bearing municipal bonds ("Bonds"). Applicants request that the order extend to future unit investment trusts sponsored by one or more of the sponsors.

2. The Sponsors intend to maintain a market for units of each Trust and continuously offer to purchase those units at the redemption price. If the Sponsors no longer maintain a secondary market, certificate holders may redeem their units. If cash held by a Trust is insufficient to pay any redemption, the Trustee is authorized to sell Bonds held by the Trust. The Trustee also may sell Bonds to meet expenses. In addition, the Sponsors may direct the Trustee to sell Bonds in specific circumstances, such as a default by an issuer or the Bonds becoming subject to federal income taxation.

3. Trustees have two principal methods for selling Bonds: (1) The Trustee can approach several non-Sponsor dealers and sell to the non-Sponsor dealer making the highest bid; or (2) the Trustee can place an order to sell Bonds with one non-Sponsor dealer ("Introducing Dealer"), who in turn retains a broker ("Clearing Broker") to communicate the availability of the Bonds by posting the offer on a wire system with contact to 300 to 400 dealers. The Clearing Broker receives the bids and selects the highest bidder. Applicants represent that the latter

method has obtained more favorable prices for the Trusts because of the broader exposure to the bond offering by potential purchasers. The Clearing Broker and the Introducing Dealer retain a concession. Merrill Lynch has negotiated a fixed fee of \$2 per bond with independent Introducing Dealers. Pursuant to an SEC order (Investment Company Act Release No. 14958) (Feb. 25, 1986) ("1986 Exemption"), sales of Bonds from the Trusts may be made to any of the Sponsors if, among other conditions, the Sponsor is the highest bidder. DAF-MIF was not a party to this order.

4. Clearing Brokers only will accept transactions from Introducing Dealers who are registered as broker-dealers under the Securities Exchange Act of 1934 ("Exchange Act"). Since the Trustee is not a registered broker-dealer, it must retain an Introducing Dealer who receives a concession for writing an order and approaching a Clearing Broker. Each of the Sponsors is a municipal securities dealer who acts as Introducing Dealer in connection with non-Trust Bond sales.

5. Applicants represent that if the requested exemptive relief is granted, not only would the Trusts continue to be permitted to effect principal transactions with the Sponsors in selling Bonds from their portfolios, but the conditions to the 1986 Exemption would be modified to permit the Trusts to use Sponsors as Introducing Dealers in those and other sale transactions. Merrill Lynch's Defined Asset Funds Division will select a Sponsor to act as Introducing Dealer for a wire service transaction for the Trusts only if it believes in good faith that those Trusts are reasonably likely to receive a better execution thereby.

6. Applicants represent that permitting the proposed transaction will benefit the Trusts and the certificateholders. The Sponsors have resources to bear the financial responsibility if a trade is not completed properly and experience with wire service executions of municipal securities transactions. Merrill Lynch believes that these firms can be of substantial value in obtaining more timely and cost-effective executions of wire service transactions for the Trusts. In addition, with the continuing consolidation of major broker-dealers, if the Sponsors continue to be excluded from acting as Introducing Dealers, the Trusts are likely to be permitted only to use smaller, less capitalized firms, which applicants believe may result in less favorable prices and execution for the Trusts.

7. Merrill Lynch submits that the fee of \$2 per Bond that it has negotiated with independent Introducing Dealers is reasonable compensation for performing these services. Because Bonds can only be sold under limited circumstances specified in the Trust Agreement, a Sponsor could not cause a Trust to sell Bonds merely to generate commissions. Applicants represent that the Trustee and Merrill Lynch will monitor currently prevailing rates of Introducing Dealers to assure that the Trusts are charged no more than the current rates.

8. The requested relief would amend the 1986 Exemption in several respects. First, applicants request that the relief granted in the 1986 Exemption, amended as requested herein, be extended to DAF-MIF. Second, applicants request that the first condition of the 1986 Exemption be deleted. This condition reads as follows:

Merrill Lynch will not advise the [Merrill Lynch, White Weld Capital Markets] Group or the municipal securities dealer department of any other Sponsor when giving instructions to sell a Municipal Bond.

Since a municipal dealer's trading department (which may make bids to purchase the Bonds) is generally not separate from the personnel who act as Introducing Dealers on wire services transactions, applicants wish to delete this condition. Applicants also request to amend other conditions so as to permit any Sponsor to act as an Introducing Dealer. Applicants represent that the transactions would remain anonymous even if a Sponsor is both the Introducing Dealer and a purchasing dealer since the transaction would be effected through the Clearing Broker, an independent party.

Applicant's Legal Analysis

1. Applicants request an order under sections 6(c) and 17(b) of the Act from section 17(a) to permit a Sponsor to purchase Bonds from the Trustee as an Introducing Dealer. Section 17(a) of the Act generally makes it unlawful for an affiliated person of a registered investment company, acting as principal, knowingly to purchase securities from the company.

2. Section 17(b) permits the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Under section 6(c), the SEC may exempt

classes of transactions if and to the extent that 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 believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b).

3. Applicants state that the regulations to which the Sponsors and the Trusts are subject, the provisions of the Trust Agreement, and the conditions stated below will prevent any overreaching. Because the price received by the Trust upon the sale of a security depends on bids made by purchasing dealers through the wire service, the Sponsor cannot influence the price received by the Trust. The Sponsors are registered as municipal securities dealers, and acknowledge that they are subject to the rules of the Municipal Securities Rulemaking Board ("MSRB"), which require members to deal fairly with all persons and to use reasonable efforts to obtain a fair and reasonable price. Merrill Lynch has agreed, and each Sponsor before acting as Introducing Dealer for any Trust will agree, to make available for ready inspection by the SEC all records required to be kept by applicants relating to the proposed transactions pursuant to the Exchange Act and MSRB rules.

4. Applicants represent that the sales will be consistent with the policy of the selling series, as recited in its registration statement and Trust Agreement.

Applicants' Conditions

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

1. The Clearing Broker will in all cases be not affiliated with any Sponsor.

2. Offers will be made through a major wire service in municipal bonds and will be kept open for three hours after initial appearance on the wire, to be reduced to not less than two hours in the discretion of the Clearing Broker in a declining market.

3. A Sponsor's bid will be accepted only if a minimum of three bids are received from persons other than a Sponsor or its affiliates.

4. The Trustee will be instructed not to inquire as to the identity of a bidding dealer, and if it receives such information, will not transmit it to any Sponsor or its agents.

5. Clearing Brokers effecting the sales will be instructed to obtain the best available price and execution and will instruct the wire services not to report any bid from a Sponsor unless it is

higher than the best price available from non-affiliated broker-dealers.

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

Margaret H. McFarland,

Deputy Secretary.

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[Rel. No. IC-21313; No. 812-9518]

Minnesota Mutual Life Insurance Company, et al.

August 17, 1995.

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

ACTION: Notice of application for order under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: The Minnesota Mutual Life Insurance Company ("Minnesota Mutual"), Minnesota Mutual Variable Life Account ("Separate Account"), and MIMLIC Sales Corporation ("MIMLIC").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the 1940 Act for exemptions from Sections 27(a)(1) and 27(a)(3) of the 1940 Act and paragraphs (b)(13)(i) and (b)(13)(ii) of Rule 6e-2 thereunder.

SUMMARY OF APPLICATION: Exemptions requested to the extent necessary to permit the issuance and sale of a Policy Enhancement Agreement ("PE Rider") as a new rider to Minnesota Mutual's Variable Adjustable Life Insurance Contracts ("VAL Contracts"). The PE Rider will provide VAL Contract owners the option of scheduling automatic face amount increases each Contract year in an amount selected by VAL Contract owners at the time of initial purchase of the VAL Contracts.

FILING DATE: The application was filed on March 9, 1995.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on September 11, 1995. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send it to the Secretary of the SEC, with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549.