

\$10.82, respectively. On March 27, 1995, applicant transferred all of the assets and liabilities of Municipal Bond Fund to Acquiring Fund's Tax-Free Income Fund in exchange for shares of beneficial interest of Acquiring Fund's Tax-Free Income Fund.

9. New York Municipal Bond Fund had 514,573.737 shares outstanding with an aggregate and per share net asset value of \$5,759,369 and \$11.19, respectively. On March 27, 1995, applicant transferred all of the assets and liabilities of New York Municipal Bond Fund to Acquiring Fund's New York Tax-Free Income Fund in exchange for shares of beneficial interest of Acquiring Fund's New York Tax-Free Income Fund.

10. On March 24, 1995, Short-Intermediate Government Fund had 1,578,443.284 shares outstanding with an aggregate and per share net asset value of \$15,218,556 and \$9.64, respectively. On March 27, 1995, applicant transferred all of the assets and liabilities of Short-Intermediate Government Fund to Acquiring Fund's Short-Intermediate Government Fund in exchange for shares of beneficial interest of Acquiring Fund's Short-Intermediate Government Fund.

11. Each shareholder of the Non-Money Market Fund received, in exchange for his or her shares in applicant, shares of the corresponding series of the Acquiring Fund having a net asset value equal to the aggregate net asset value of his or her shares in applicant immediately prior to the reorganization.

#### Liquidating Series

12. On December 29, 1994, Small Capitalization Stock Fund had 100,010 shares outstanding with an aggregate and per share net asset value of \$1,000,100 and \$10.00, respectively. On that date, the sole shareholder gave notice that it wanted to redeem its entire holdings. On December 30, 1995 complete redemption distributions were made. Such distributions effectively liquidated the Small Capitalization Stock Fund.

13. On March 24, 1995, Money Market Fund had 363,147.490 INDEPENDENCE CAPITAL Class shares outstanding with an aggregate and per share net asset value of \$363,154 and \$1.00, respectively. Government Money Market Fund had 3,130,200 INDEPENDENCE CAPITAL Class shares outstanding with an aggregate and per share net asset value of \$3,136 and \$1.00, respectively. Tax-Free Money Market Fund had 111,213.310 INDEPENDENCE CAPITAL Class shares outstanding with an aggregate and per

share net asset value of \$111,215 and \$1.00, respectively. On March 27, 1995, applicant made complete redemption distributions to the shareholders of the INDEPENDENCE CAPITAL Class of stock of the Money Market Funds.

14. On June 9, 1995, Money Market Fund had 407,919,678.080 Janney Montgomery Scott Class shares outstanding with an aggregate and per share net asset value of \$407,919,678 and \$1.00, respectively. Government Money Market Fund had 279,565,212.580 Janney Montgomery Scott Class shares outstanding with an aggregate and per share net asset value of \$279,565,213 and \$1.00, respectively. Tax-Free Money Market Fund had 107,965,238.920 Janney Montgomery Scott Class shares outstanding with an aggregate and per share net asset value of \$107,965,239 and \$1.00, respectively. On June 9, 1995, the sole shareholder of the Money Market Funds' Janney Montgomery Class of stock gave notice that it wanted to redeem its holdings and complete redemption distributions were made.

#### General Matters

15. Total expenses of the reorganization were \$313,000. Total Return Growth Fund bore \$1,543.65 and Opportunities Fund bore 1,502.04. The remainder was borne by applicant's investment adviser, Independence Capital Management, Inc. Such expenses were for printing and professional fees.

16. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

17. Applicant will terminate its existence as a Maryland corporation.

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

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 95-23296 Filed 9-19-95; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Release No. 21354; 812-7679]

### The Managers Funds and The Managers Funds, L.P.; Notice of Application

September 13, 1995.

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

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

**APPLICANTS:** The Managers Funds (the "Trust") and The Managers Funds, L.P. (the "Manager").

**RELEVANT ACT SECTIONS:** Order requested under section 6(c) of the Act for an exemption from section 15(a) and rule 18f-2.

**SUMMARY OF APPLICATION:** Applicants seek a conditional order permitting the Manager to enter into sub-advisory agreements on behalf of each series of the Trust without receiving approval of the series' shareholders.

**FILING DATES:** The application was filed on February 8, 1991, and amendments thereto were filed on May 18, 1994, July 29, 1994, July 28, 1995, and September 13, 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 October 10, 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 Fifth Street NW., Washington, D.C. 20549. Applicants, 40 Richards Avenue, Norwalk, Connecticut 06854.

**FOR FURTHER INFORMATION CONTACT:** Mary Kay Frech, Senior Attorney at (202) 942-0579, or C. David Messman, 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. The Trust is a registered open-end management investment company organized as a Massachusetts business trust. The Trust is a series company currently consisting of eleven separate series, each constituting a different investment portfolio (each a "Fund" and, collectively, the "Funds"). Applicants also request relief with

respect to any Fund that may be created in the future.

2. The Manager serves as investment manager to each Fund. Under its investment management agreement with the Trust, the Manager provides certain administrative services to the Trust and the Funds. In addition, the Manager selects and recommends to the trustees investment advisers to manage the portfolio of each Fund (the "Sub-Advisers"). The portfolio of a Fund may be managed by a single Sub-Adviser or may be allocated by the Manager between or among more than one Sub-Adviser.

3. The Manager monitors the performance of the various Sub-Advisers and researches and tracks the performance of potential new Sub-Advisers. The Manager has the authority to reallocate, from time to time, Fund assets among Sub-Advisers or terminate a sub-advisory relationship without prior approval by the trustees.<sup>1</sup> The Manager also makes recommendations to the trustees for the addition of new Sub-Advisers as it deems appropriate. For these services the Manager receives a management fee from each Fund, and the Manager in turn pays the advisory fee of each Sub-Adviser.

4. Applicants request an order permitting the Manager to enter into contracts with new Sub-Advisers for the Funds without obtaining shareholder approval. Although shareholders will not vote on Sub-Adviser changes, applicants will provide shareholders with an information statement that includes all the information about a new Sub-Adviser or sub-advisory contract that would be included in a proxy statement. The investment management contracts between the Manager and the Trust or between the Manager and the Funds would remain subject to the shareholder voting requirements of the Act.

5. In 1983, the SEC issued an order to applicants granting an exemption similar to the one now being requested.<sup>2</sup> At that time, each investor in the Funds entered into a separate asset management consulting agreement with the Manager and paid an individually negotiated fee directly to the Manager. No advisory fees were paid by the Funds to the Manager. Subsequently, the fee structure was changed so that the Funds, rather than individual

shareholders, pay management fees to the Manager. Applicants ceased relying on the 1983 order after the Funds' fee structure was changed. The requested order would supersede the 1983 order.

#### Applicants' Legal Analysis

1. Section 15(a) makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f-2 provides 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. Applicants argue that the requested exemption would permit the Manager to perform to the fullest extent the principal function the Funds are paying it to perform: selecting Sub-Advisers, monitoring their performance, and making whatever changes in the roster of Sub-Advisers are appropriate, subject to the approval of the Fund trustees. To require that shareholders approve each new Sub-Adviser would result not only in unnecessary administrative expense to the Funds, but could result in harmful delays in executing changes in Sub-Advisers or their sub-advisory agreements that the Manager and the trustees have determined are necessary.

3. Primary responsibility for management of the Funds is vested in the Manager, subject to oversight by the trustees. The Manager continuously monitors the performance of each Sub-Adviser, and from time to time recommends the replacement of a particular Sub-Adviser, or allocation of a portion of the assets of a particular Fund to an additional Sub-Adviser. Applicants argue that this practice distinguishes the Trust from the vast majority of other investment companies. Applicants note that the Trust currently has eleven Funds that were organized at various times over the last eleven years. During this time, fifty different Sub-Advisers have been employed by the Trust.

Applicants state that the frequency of Sub-Adviser changes and the reasons underlying these changes relate to a variety of factors including, the size of a Fund's assets, the type of assets the Fund purchases, the performance of a particular Sub-Adviser, a change in control that causes the sub-advisory agreement to terminate, or a decision to change investment styles. Applicants argue that their arrangements are distinguishable from those of most other investment companies where the identity of the company providing portfolio management is the primary

basis for choosing among funds with similar investment objectives and policies.

4. Applicants submit that investors will be in a position to make a fully informed investment decision as to the purchase, redemption, or retention of Fund shares. The Trust's prospectus discloses information concerning the identity, ownership, and qualifications of the Sub-Advisers in full compliance with Form N-1A. Further, the information statements would provide shareholders with all information regarding a new Sub-Adviser or a material change in a sub-advisory agreement to the same extent as would set forth in a proxy statement. These arrangements are consistent with the protection of investors because they both permit the Trust to avoid the administrative burden and expense associated with a proxy solicitation (which benefits all shareholders, including those that might redeem their shares after review of an information statement relating to a new Sub-Adviser or a material change in a sub-advisory agreement they did not favor) and provide full disclosure to investors, permitting them to "vote with their feet."

5. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the same extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the policies and purposes fairly intended by the policies and provisions of the Act. Applicants believe that the requested relief meets this standard.

#### Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. The Manager will provide general management and administrative services to the Trust, and, subject to review and approval by the board of trustees (the "Trustees"), will (a) set the Funds' overall investment strategies; (b) select Sub-Advisers; (c) monitor and evaluate the performance of Sub-Advisers; (d) allocate and, when appropriate, reallocate a Fund's assets among its Sub-Advisers; and (e) implement procedures reasonably designed to ensure that the Sub-Advisers comply with the Trust's investment objectives, policies, and restrictions.

2. The operation of the Funds in the manner described in this application has been approved by a majority of each Fund's outstanding voting securities, as

<sup>1</sup> As a matter of practice, however, the trustees are kept apprised of such actions contemplated by the Manager, and all such actions are subject to review by the trustees.

<sup>2</sup> Investment Company Act Release Nos. 13594 (Oct. 24, 1983) (notice) and 13635 (Nov. 22, 1983) (order). At the time of the 1983 order, only nine of the current eleven Funds were in existence.

defined in the Act. Before a future Fund that does not presently have an effective registration statement may rely on the order, its initial shareholder will approve the multi-manager structure before that Fund's shares are offered to the public.

3. The Trust will furnish to shareholders the information about a new Sub-Adviser or material change in a sub-advisory contract that would be included in a proxy statement. The Trust will meet this condition by providing shareholders, within sixty (60) days of the hiring of a Sub-Adviser or the implementation of any material change to the terms of a sub-advisory contract, with an information statement complying with Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 (the "Exchange Act"). This information statement also will meet the requirements of Schedule 14A under the Exchange Act.

4. Each Fund's prospectus will disclose the existence, substance, and effect of the order requested hereby.

5. No trustee or officer of the Trust or general partner or officer of the Manager owns or will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such trustee, officer or general partner) any interest in any Sub-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 a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

6. The Manager will not enter into any sub-advisory contract with any Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or the Manager (an "Affiliated Sub-Adviser") without such contract, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

7. At all times, a majority of the trustees of the Trust will be persons each of whom is not an "interested person" of the Trust as defined in section 2(a)(19) of the Act. ("Independent Trustees"), and the nomination of new or additional Independent Trustees will be placed within the discretion of the then existing Independent Trustees.

8. When a change in Sub-Advisers is proposed for a Fund that has an Affiliated Sub-Adviser, the trustees, including a majority of the Independent Trustees, will make a separate finding,

reflected in the Trustee's board minutes, that such change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Manager or the Affiliated Sub-Adviser derives an inappropriate advantage.

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

Margaret M. McFarland,

*Deputy Secretary.*

[FR Doc. 95-23294 Filed 9-19-95; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21357; 812-9612]

### Sierra Trust Funds, et al.; Notice of Application

September 13, 1995.

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

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

**APPLICANTS:** Sierra Trust Funds, The Sierra Variable Trust (collectively, the "Existing Funds"), any registered investment companies, or series thereof, for which Sierra Investment Advisors Corporation ("Sierra Advisors") or any entity controlling, controlled by, or under common control with Sierra Advisors, acts in the future as investment adviser or principal underwriter ("Future Funds," and together with the Existing Funds, the "Funds"), and Sierra Advisors.

**RELEVANT ACT SECTIONS:** Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(a), 18(c), 18(f)(1), 22(f), 22(g), and 23(a) and rule 2a-7 thereunder, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1), and under section 17(d) of the Act and rule 17d-1 thereunder to permit certain joint arrangements.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit each applicant investment company to enter into deferred compensation arrangements with its trustees who are not interested persons of the company.

**FILING DATES:** The application was filed on May 19, 1995 and amended on August 18, 1995 and September 8, 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

October 10, 1995, 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 SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 9301 Corbin Avenue, Suite 333 Northridge, California 91324.

#### FOR FURTHER INFORMATION CONTACT:

Marianne H. Khawly, Staff Attorney, at (202) 942-0562, or C. David Messman, 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 at the SEC's Public Reference Branch.

#### Applicants' Representations

1. Each of the Existing Funds is a Massachusetts business trust registered under the Act as an open-end management investment company. The Sierra Trust Funds continuously offers its shares for sale to the general investing public and has three money market series. The Sierra Variable Trust continuously offers its shares for sale to insurance company separate accounts that fund variable annuity contracts and has one money market series. Sierra Advisors is the investment adviser to each Fund and is registered under the Investment Advisers Act of 1940.

2. Each Existing Fund has a board of trustees (collectively, the "Boards"), a majority of the members of which are not "interested persons" (the "Independent Trustees") of such Existing Fund within the meaning of section 2(a)(19) of the Act. Each Independent Trustee or one or more of the Funds receives fees each year which collectively are, and are expected to continue to be, insignificant in comparison to the total net assets of the Funds. Applicants request an order to permit the Independent Trustees to elect to defer receipt of 50% or more of their trustees' fees pursuant to a deferred compensation plan (the "Plan") and related election agreement entered into between each Independent Trustee and the appropriate Fund. Under the Plan, the Independent Trustees could defer payment of trustees' fees (the "Deferred Compensation") in order to defer payment of income taxes, or for other