

For the SEC, by the Division of Investment Management, under delegated authority.
Margaret H. McFarland,
Deputy Secretary.

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[Rel. No. IC-21697; 812-9824]

INDEX Fund, et al.; Notice of Application

January 23, 1996.

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

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

APPLICANTS: INDEX Fund ("INDEX"), INDEX II Series Fund ("INDEX II"), INDEX Fund 3 ("INDEX 3"), WRL Series Fund, Inc. ("WRL"), (collectively, the "Existing Funds"), any future registered open-end management investment company, or series thereof, for which INDEX Management, Inc ("IMI"), InterSecurities, Inc ("ISI"), or Western Reserve Life Assurance Co. of Ohio ("Western Reserve," and together with IMI and ISI the "Investment Advisers") or any entity controlling, controlled by, or under common control with the Investment Advisers, acts as investment adviser (the "Future Funds," and together with the Existing Funds, the "Funds"), and the Investment Advisers.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 18(f)(1), 22(f), and 22(g), 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 the Funds to enter into deferred compensation arrangements with their independent trustees.

FILING DATES: The application was filed on October 16, 1995 and amended on January 18, 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 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 February 20, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 201 Highland Avenue, Largo, Florida 34640.

FOR FURTHER INFORMATION CONTACT:

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

Applicants' Representations

1. INDEX, INDEX II, and INDEX 3 are Massachusetts business trusts registered under the Act as open-end management investment companies. INDEX and INDEX II currently offer one series and eleven series of shares, respectively, that are continuously offered for sale to the general investing public. INDEX 3 currently consists of one series of shares but discontinued its sale to new investors effective June 15, 1990. WRL is a Maryland Corporation registered under the Act as an open-end management investment company. WRL currently offers eighteen series of shares, one of which is a money-market series, that are continuously offered for sale to insurance company separate accounts that fund variable annuity contracts.

2. Each of the Investment Advisers is registered under the Investment Advisers Act of 1940. IMI is the investment adviser of INDEX, INDEX 3, and the following five INDEX II portfolios: Growth Portfolio, Global Portfolio, Flexible Income Portfolio, Balanced Portfolio, and Capital Appreciation Portfolio. ISI is the investment adviser to the remaining six INDEX II portfolios: Tax-Exempt Portfolio, Income Plus Portfolio, Aggressive Growth Portfolio, Equity Income Portfolio, Tactical Asset Allocation Portfolio, and C.A.S.E. Portfolio. Western Reserve is the investment adviser to each of the WRL portfolios.

3. Each Existing Fund has a board of trustees/directors (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. The boards of INDEX, INDEX II, and INDEX 3 currently consist of the same seven persons, five

of whom are Independent Trustees. Each of the five Independent Trustees currently is entitled to receive a total annual retainer of \$13,000 of which INDEX, INDEX II, and INDEX 3 each pay a pro rata share based on its relative net assets. In addition, each of the five Independent Trustees receives \$1,250 plus reimbursement for incidental expenses for each INDEX II board meeting attended and \$500 plus reimbursement for incidental expenses for each INDEX or INDEX 3 board meeting attended.¹ The board of WRL currently consists of five persons, three of whom are Independent Trustees. Each WRL Independent Trustee is entitled to receive an annual fee of \$6,000, and \$500 for each board meeting attended plus reimbursement for incidental expenses.

4. Applicants request an order to permit the Independent Trustees to elect to defer receipt of all or a portion of their trustees' fees pursuant to a deferred compensation plan (the "Plan") and related election agreement (the "Agreement") entered into between each Independent Trustee and the appropriate Fund. Under the Plan, the Independent Trustee could defer payment of trustees' fees (the "Deferred Compensation") in order to defer payment of income taxes, or for other reasons.

5. Under the Plan, the deferred fees payable by a Fund to a participating Independent Trustee (a "Participant") will be credited to a book reserve account established by the Fund (an "Account"), as of the date such fees would have been paid to such Independent Trustee. The value of the Account as of any date will be determined by reference to a hypothetical investment in Class A shares of one or more portfolios of INDEX II ("Underlying Securities"), as selected by a Participant.

6. The election to participate in the Plan must be made on or before September 30 preceding the calendar year during which the amounts to be deferred, absent deferral, would be paid to the Participant. The Plan's effective date is January 1, 1996. In order to facilitate implementation of the Plan, a

¹ The boards of INDEX, INDEX II, and INDEX 3 have adopted a policy whereby any Independent Trustee in office on September 1, 1990 who has served at least three years may, subject to certain limitations, elect upon his or her resignation to serve as a trustee emeritus. A trustee emeritus has no authority, power, or responsibility with respect to any INDEX, INDEX II, or INDEX 3 matter. A trustee emeritus, however, is entitled to receive an annual fee equal to one-half the fee then payable per annum to the Independent Trustees of the Fund or Funds from which he or she resigned, plus reimbursement of expenses incurred for attendance at board meetings.

Participant may elect to defer fees payable during 1996 no later than January 30, 1996. An individual who becomes a Participant after the effective date of the Plan may make a deferral election with respect to fees that, absent deferral, would be paid to him or her during the remainder of the calendar year in which he or she becomes a Participant on or before the date that is 30 days after the date on which he or she becomes a Participant.²

7. The initial value of Deferred Compensation credited to an Account will be effected at the respective current net asset value of each Fund. Thereafter, the value of such Account will fluctuate as the net asset value of the shares of each Fund fluctuates and also will reflect the value of assumed reinvestment of dividends and capital gains distributions from each Fund in additional shares of such Fund.

8. The Funds' respective obligations to make payments of amounts accrued under the Plan will be general unsecured obligations, payable solely from their respective general assets and property. The Plan provides that the Funds will be under no obligation to purchase, hold or dispose of any investments under the Plan, but, if one or more of the Funds choose to purchase investments to cover their obligations under the Plan, then any and all such investments will continue to be a part of the respective general assets and property of such Funds.

9. As a matter of prudent risk management, to the extent a Participant selects Underlying Securities of a Fund other than the Fund for which the Participant is deferring his or her trustee's fees, each Fund intends in all cases to, and with respect to any money market Fund or portfolio that values its assets by the amortized cost method will, purchase and maintain Underlying Securities in amounts equal in value to the deemed investments of the Account of its Participants. Thus, in cases where the Funds purchase shares of the Underlying Securities, liabilities created by the credits to the Accounts under the Plan are expected to be matched by an equal amount of assets (i.e., a direct investment in Underlying Securities), which assets would not be held by the Fund if trustees' fees were paid on a current basis.

²Until such time as an order is granted with respect to the application, Deferred Compensation will be credited to an Account in the form of cash, and each Account shall be deemed to earn interest at an annual rate, effective on each January 1, determined by the committee established by the boards to administer the Plan. The initial interest rate shall be a rate equal to the yield on 90-day U.S. Treasury Bills.

10. Payments under the Plan will be made in one lump sum or in quarterly installments (not to exceed 40) as the Independent Trustee elects. Upon application by an Independent Trustee and a determination by the board or such person(s) as the board may designate from time to time (the "Plan Administrator") that the Independent Trustee has suffered a severe financial hardship resulting from an unanticipated emergency caused by an event beyond the control of the Independent Trustee, the Plan Administrator shall distribute to the Trustee, in a single lump sum, an amount equal to the lesser of the amount needed by the Independent Trustee to meet the hardship, or the balance of the Trustee's Account.

11. In the event of a Participant's death, amounts payable under the Plan will thereafter be payable to the Participant's designated beneficiaries. In all other events, a Participant's right to receive payments will be nontransferable. In the event of the liquidation, dissolution, or winding up of a Fund or the distribution of all or substantially all of a Fund's assets and property to its shareholders (unless the Fund's obligations under the Plan have been assumed by a financially responsible party purchasing such assets) or in the event of a merger or reorganization of a Fund (unless prior to such merger or reorganization, the Fund's Board determines that the Plan shall survive the merger or reorganization), all unpaid amounts in the Accounts maintained by such Fund shall be paid in a lump sum to the Participants on the effective date thereof.³ The Plan will not obligate any participating Fund to retain a trustee in such a capacity, nor will it obligate any Fund to pay any (or any particular level of) trustees' fees to any trustee.

Applicants' Legal Analysis

1. Applicants request an order which would exempt the Funds: (a) under section 6(c) of the Act from sections 13(a)(2), 18(f)(1), 22(f), and 22(g), and rule 2a-7 thereunder, to the extent necessary to permit the Funds to adopt and implement the Plan; (b) under sections 6(c) and 17(b) of the Act from section 17(a)(1) to permit the Funds to sell securities for which they are the issuer to participating Funds in connection with the Plan; and (c) under section 17(d) of the Act and rule 17d-1 thereunder to permit the Funds to

³Applicants acknowledge that the requested order would not permit a party acquiring a Fund's assets to assume a Fund's obligations under the Plan if such obligations would constitute a violation of the Act by the assuming party.

effect certain joint transactions incident to the Plan.

2. Section 18(f)(1) generally prohibits a registered open-end investment company from issuing senior securities. Section 13(a)(2) requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Applicants state that the Plan possesses none of the characteristics of senior securities that led Congress to enact these sections. The Plan would not: (a) induce speculative investments or provide opportunities for manipulative allocation of any Fund's expenses or profits; (b) affect control of any Fund; or (c) confuse investors or convey a false impression as to the safety of their investments. All liabilities created under the Plan would be offset by equal amounts of assets that would not otherwise exist if the fees were paid on a current basis.

3. Section 22(f) prohibits undisclosed restrictions on transferability or negotiability of redeemable securities issued by open-end investment companies. The Plan would set forth all such restrictions, which would be included primarily to benefit the Participants and would not adversely affect the interests of the trustees or of any shareholder.

4. Section 22(g) prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. This provision prevents the dilution of equity and voting power that may result when securities are issued for consideration that is not readily valued. Applicants believe that the Plan would merely provide for deferral of payment of such fees and thus should be viewed as being issued not in return for services but in return for a Fund not being required to pay such fees on a current basis.

5. Rule 2a-7 imposes certain restrictions on the investments of "money market funds," as defined under the rule, that would prohibit a Fund that is a money market Fund from investing in the shares of any other Fund. Applicants believe that the requested exemption would permit the Funds to achieve an exact matching of Underlying Securities with the deemed investments of the Accounts, thereby ensuring that the deferred fees would not affect net asset value.

6. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is

necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the relief requested from the above provisions satisfies this standard.

7. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company from selling any security to such registered investment company. Funds that are advised by the same entity are "affiliated persons" under section 2(a)(3)(C) of the Act by reason of being under common control. Applicants assert that section 17(a)(1) was designed to prevent, among other things, sponsors of investment companies from using investment company assets as capital for enterprises with which they were associated or to acquire controlling interest in such enterprises. Applicants submit that the sale of securities issued by the Funds pursuant to the Agreement does not implicate the concerns of Congress in enacting this section, but merely would facilitate the matching of each Fund's liability for deferred trustees' fees with the Underlying Securities that would determine the amount of such Fund's liability.

8. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any persons concerned, and the transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Applicants assert that the proposed transaction satisfies the criteria of section 17(b). Applicants also request relief from section 17(a)(1) under section 6(c) to the extent necessary to implement the Deferred Compensation under the Plan and Agreement on an ongoing basis.

9. Section 17(d) and rule 17d-1 generally prohibit a registered investment company's joint or joint and several participation with an affiliated person in a transaction in connection with any joint enterprise or other joint arrangement or profit-sharing plan "on a basis different from or less advantageous than that of" the affiliated person. Participants will not receive a benefit, directly or indirectly, that would otherwise inure to a Fund or its shareholders. Participants will receive tax deferral but the Plan otherwise will maintain the parties, viewed both separately and in their relationship to one another, in the same position as if the deferred fees were paid on a current basis. When all payments have been

made to a participant, the Participant will be no better off (apart from the effect of tax deferral) than if he or she had received trustees fees on a current basis and invested them in Underlying Securities.

Applicants' Conditions

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

1. With respect to the requested relief from rule 2a-7, any money market Fund or any money market portfolio thereof that values its assets by the amortized cost method will buy and hold Underlying Securities that determine the value of the Accounts to achieve an exact match between the liability of any such Fund's or portfolio's liability to pay deferred fees and the assets that offset that liability.

2. If a Fund purchases Underlying Securities issued by an affiliated Fund, the Fund will vote such shares in proportion to the votes of all other shareholders of such affiliated Fund.

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

Margaret H. McFarland,

Deputy Secretary.

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[Rel. No. IC-21700; 812-9928]

Van Kampen American Capital Global Managed Assets Fund, et al.; Notice of Application

January 24, 1996.

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

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

APPLICANTS: Van Kampen American Capital Global Managed Assets Fund, Van Kampen American Capital Life Investment Trust, Van Kampen American Capital World Portfolio Series Trust (collectively, the "Funds"), Van Kampen American Capital Asset Management, Inc. (the "Adviser"), John Govett & Co. Limited ("Govett"), and John Govett Holdings Limited ("Govett Holdings").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 15 (a) and (c) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit the implementation, without shareholder approval, of new sub-advisory agreements (each a "New Sub-Advisory

Agreement") for a period of up to 120 days following the termination of the former sub-advisory contracts on December 29, 1995 (each a "Former Sub-Advisory Contract") (the "Interim Period"). The order also would permit the sub-adviser to receive from the Funds fees earned during the Interim Period after shareholders have approved the New Sub-Advisory Agreements. The order further would allow the implementation, without board of trustee approval, of the New Sub-Advisory Agreements, for a limited period of time.

FILING DATES: The application was filed on December 28, 1995, and amended on January 23, 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 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 February 19, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, Transco Tower, 2800 Post Oak Boulevard, Houston, TX 77056.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942-0572, or Alison E. Baur, 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.

Applicant's Representations

1. Each Fund is an open-end management investment company registered under the Act. The Adviser serves as investment adviser to each Fund and has engaged Govett to serve as subadviser in connection with non-U.S. securities held by the Funds pursuant to the Former Sub-Advisory Contracts. Govett is a United Kingdom corporation that is registered under the Investment Advisers Act of 1940 as an investment adviser.

2. On December 7, 1995, the former ultimate parent of Govett, London