OUTLAY CHANGES UNDER RESCISSION OF SECTION 503(A)(1)

Effect on outlays (in thousands of dollars)					
FY 1998	FY 1999	FY 2000	FY 2001	FY 2003	Total
−1,300	−1,300	−1,300	−1,300	.....	−5,200

OUTLAY CHANGES UNDER RESCISSION OF SECTION 503(A)(2)

Effect on outlays (in thousands of dollars)					
FY 1998	FY 1999	FY 2000	FY 2001	FY 2003	Total
.....	.....	.....	.....	−1,352	−1,352

The negotiations requirement in section 503(b), and the legislative history of section 503, make clear that the intent of the section was that the Secretary of the Interior would convey $10 million in Federal mineral rights in the State of Montana under section 503(a)(1), rather than all Federal mineral rights in Otter Creek Tracts 1, 2, and 3 under section 503(a)(2), and it is most likely that this is what the Secretary would have done.

The discretionary budget authority in both section 503(a)(1) and section 503(a)(2) is proposed to be rescinded, but because the Secretary could not have made both conveyances, and the dollar amount of discretionary budget authority for the intended and most likely conveyance under section 503(a)(1) exceeds the dollar amount of discretionary budget authority for the alternative conveyance under section 503(a)(2) through FY 2003, the dollar amount of discretionary budget authority proposed for rescission above of $5,200,000 is based upon the most likely conveyance under section 503(a)(1).

[FR Doc. 98–20571 Filed 7–31–98; 8:45 am]
BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23332; 812–10754]

Great Plains Funds, et al.; Notice of Application

July 27, 1998.

AGENCY: Securities and Exchange Commission (''Commission'').

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

RELEVANT ACT SECTIONS: Order requested under section 12(d)(1)(J) of the Act for an exemption from section 12(d)(1) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to implement a ''fund of funds'' arrangement. The fund of funds would invest in funds in the same group of investment companies and in other funds within the limits of section 12(d)(1)(F) of the Act. Applicants also seek an exemption from the sales load limitation in section 12(d)(1)(F) of the Act.

APPLICANTS: Great Plains Fund (the ''Trust'') and First Commerce Investors, Inc. (the ''Adviser'').

FILING DATES: The application was filed on August 13, 1997, and amended on May 15, 1998 and July 14, 1998. Applicants have agreed to file an amendment 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 August 21, 1998, 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, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Great Plains Funds, 5800 Corporate Drive, Pittsburgh, PA 15237–7010. First Commerce Investors, Inc., 610 NBC Center, Lincoln, NB 68508.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch (tel. 202–942–8090).

Applicants' Representations

1. The Trust is registered as an open-end management investment company under the Act and currently consists of five portfolios: Great Plains Equity Fund, Great Plains Premier Fund, Great Plains International Equity Fund, Great Plains Intermediate Bond Fund, and Great Plains Tax-Free Bond Fund. The portfolios are advised by the Adviser, which is registered under the Investment Advisers Act of 1940.

2. Applicants request relief to permit certain portfolios of the Trust (the ''Portfolios'') to invest in certain other portfolios of the Trust (the ''Underlying Portfolios'') that are in the same group of investment companies as the Portfolios.[1] Applicants also request relief to permit the Portfolios to invest in other registered open-end management investment companies that are not part of the same group of investment companies as the Portfolios (the ''Other portfolios'') in accordance with section 12(d)(1)(F) of the Act discussed below.[2] The Portfolios also

[1] Initially, the Great Plains Equity Fund will be the only Portfolio investing in an Underlying Portfolio, which will be the Great Plains International Equity Fund.

[2] Applicants also request relief for each registered open-end management investment company that currently, or in the future, is part of the same ''group of investment companies'' as the Trust as defined in section 12(d)(1)(G)(ii) of the Act. All registered open-end management investment companies which currently intend to rely on the order are named as applicants. Any registered open-

will invest a portion of their assets directly in securities (''Direct Investments''). With respect to Portfolio's investment in Other Portfolios, applicants also seek an exemption from the sales load limitation in section 12(d)(1)(F) of the Act. Applicants believe that the proposed structure of the Portfolios will provide a consolidated and efficient means through which investors can have access to a comprehensive investment vehicle.

Applicants' Legal Analysis

Section 12(d)(1) of the Act

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) shall not apply to the securities of an acquired company purchased by an acquiring company if: (i) the acquiring company and the acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (ii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) by a securities association registered under section 15A of the Securities Exchange Act of 1934, or the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G). Section 12(d)(1)(G)(ii) defines the term ''group of investment companies'' to mean any two or more registered investment companies that hold themselves out to investors as related companies for purposes of investment and investor services. Because the Portfolios will invest in shares of the Other Portfolios and make Direct Investments, they cannot relay on the exemption from section 12(d)(1)(A) and (B) afforded by section 12(d)(1)(G).

3. Section 12(d)(1)(F) of the Act provides that section 12(d)(1) shall not apply to an acquiring company if the company and its affiliates own no more than 3% of an acquired company's securities, provided that the acquiring company does not impose a sales load of more than 1.5% on its shares. In addition, the section provides that no acquired company is obligated to honor any acquiring company redemption request in excess of 1% of the acquired company's securities during any period of less than 30 days, and the acquiring company must vote its acquired company shares either in accordance with instructions from its shareholders or in the same proportion as all other shareholders of the acquired company. The Portfolios will invest in Other Portfolios in reliance on section 12(d)(1)(F). if the requested relief is granted, shares of the Portfolios will be sold with a sales load that exceeds 1.5%.

4. Section 12(d)(1)(J) provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exemption is consistent with the public interest and the protection of investors.

5. Applicants request relief under section 12(d)(1)(J) of the Act from the limitations of sections 12(d)(1)(A) and (B) to permit the Portfolios to invest in the Underlying Portfolios and the Portfolios to sell shares to the public with a sales load that exceeds 1.5%.

6. Applicants state that the Portfolios' investments in the Underlying Portfolios do not raise the concerns about undue influence that sections 12(d)(1)(A) and (B) were designed to address. Applicants further state that the proposed conditions would appropriately address any concerns about the layering of sales charges or other fees. The Portfolios will invest in Other Portfolios only within the limits of section 12(d)(1)(F). Applicants believe that an exemption from the sales load limitation in that section is consistent with the protection of investors because applicants' proposed sales load limit would cap the aggregate sales charges of both the Portfolio and the Other Portfolio in which it invests. Applicants have agreed, as a condition to the relief, that any sales charges, asset-based distribution and service fees relating to the Portfolios' shares, when aggregated with any sales charges, asset-based distribution and service fees paid by the Portfolios relating to its acquisition, holding, or disposition of shares of the Underlying Portfolios and Other Portfolios, will not exceed the limits set forth in Rule 2830 of the NASD Conduct Rules.

Section 17(a) of the Act

7. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting 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; (d) if the other person is an investment company, any investment adviser of that company. Applicants submit that the Portfolios and Underlying Portfolios may be deemed to be affiliated persons of one another by virtue of being under common control of the Adviser, or because the Portfolios own 5% or more of the shares of an Underlying Portfolio. Applicants state that purchases and redemptions of shares of the Underlying Portfolios by the Portfolios could be deemed to be principal transactions between affiliated persons under section 17(a).

8. Section 17(b) provides that the Commission shall exempt a proposed transaction from section 17(a) if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

9. Section 6(c) of the Act provides that the Commission may exempt persons or transactions from any provision of the Act if 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 request an exemption under sections 6(c) and 17(b)

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end management investment company that relies on the order in the future will do so only in accordance with the terms and conditions of the application.

to permit the Portfolios to purchase and redeem shares of the Underlying Portfolios.

10. Applicants believe that the terms of the proposed transactions will be reasonable and fair and will not involve overreaching because shares of Underlying Portfolios will be sold and redeemed at their net asset values. Applicants also state that the investment by the Portfolios in the Underlying Portfolios will be effected in accordance with the investment restrictions of the Portfolios and will be consistent with the policies as set forth in the registration statement of the Portfolios.

Applicants' Conditions

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

1. Each Portfolio and each Underlying Portfolio will be part of the same ''group of investment companies,'' as defined in section 12(d)(G)(ii) of the Act.

2. No Underlying Portfolio or Other Portfolio will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Portfolio or Other Portfolio (a) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Portfolio or Other Portfolio to (i) acquire securities of one or more affiliated investment companies for short-term cash management purposes; or (ii) engage in interfund borrowing and lending transactions.

3. Any sales charges, distribution-related fees, and service fees relating to the shares of the Portfolios, when aggregated with any sales charges, distribution-related fees, and service fees paid by the Portfolios relating to its acquisition, holding, or disposition of shares of the Underlying Portfolios and Other Portfolios, will not exceed the limits set froth in rule 2830 of the NASD Conduct Rules.

4. Before approving any advisory contract under section 15 of the Act, the board of trustees of a Portfolio, including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, will find that the advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio or Other Portfolio advisory contract. This finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Portfolio.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–20560 Filed 7–31–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40264; File No. SR–CBOE–98–31]

Self-Regulatory Organization; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Exchange Fees.

July 24, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder notice is hereby given that on June 30, 1998, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On July 15, 1998, the Exchange filed a letter amendment to the proposed rule change (''Amendment No. 1'').[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend and add certain fees, as well as renew and amend (i) its Prospective Fee Reduction Program; and (ii) its Customer ''Large'' Trade Discount Program. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 corrected an error in the original filing regarding the trade match fee reduction for a threshold volume of 925,000 contracts and above, and made other clarifying changes. *See* letter from Stephanie C. Mullins, Attorney, CBOE to S. Kevin An, Special Counsel, Division of Market Regulation, Commission (July 14, 1998).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments its received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change its to make certain fee changes and additions, and to renew and amend (i) the Exchange's Prospective Fee Reduction Program; and (ii) its Customer ''Large'' Trade Discount Program. The foregoing fee changes are being implemented by the Exchange pursuant to CBOE Rule 2.22 and will take effect on July 1, 1998.

The Exchange is amending the following fees: (1) Trade Match Fee will be increased to $.05 from $.04 per contract side; (2) Trade Match Report Fees will be changed to $.0025 per contract side for all matched and unmatched information. Previously the fee was $.0008 for paper reports per contract side, per copy, for matched and unmatched information; $.0003 for data transmission per contract side, per pass; and $.0003 for unmatched report transmission per contract, per pass; (3) CBOE Market-Maker Handheld Terminals Fee will be increased to $.08 per record from $.05 per record; (4) DPM Regulatory Fee will be changed to $.40 per $1,000 of gross revenue from a flat fee of $150 per quarter; (5) Dow Jones Booth Fee will be changed to a flat $300 per month, which previously was $300 per month for OCC firms and $625 per month for Non-OCC firms (the fee also formerly included a variable fee for insufficient fee credits for both OCC and Non-OCC firms). The Exchange is proposing to add the following fees: (1) Technology Fee of $200 per month; and (2) Book Manual Entry Fee of $1 per order.

The Exchange's Fee Reduction Program for Market-Maker Transaction Fees, Floor Broker Fees, and Member Dues currently provides that if at the end of any quarter of the Exchange's fiscal year, the Exchange's average contract volume per day on a fiscal year-