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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-24066; 812-11690]

Nuveen Floating Rate Fund

October 1, 1999.

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

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 18(c) and 18(i) of the Act, under sections 6(c) and 23(c)(3) of the Act for an exemption from rule 23c-3 under the Act, and pursuant to section 17(d) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares, and impose asset-based distribution fees and early withdrawal charges.

APPLICANTS: Nuveen Floating Rate Fund ("Fund"), Nuveen Senior Loan Asset Management Inc. ("Adviser"), and John Nuveen & Co. Incorporated ("Distributor").

FILING DATES: The application was filed on July 9, 1999, and amended on September 23, 1999.

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 26, 1999, 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 5th Street, NW., Washington, DC 20549-0609; Gifford R. Zimmerman, Esq., John Nuveen & Co. Incorporated, 333 West Wacker Drive, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942-0582, or Mary Kay Frech, 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, 450 5th Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

Applicants' Representations

1. The Fund is a closed-end management investment company registered under the Act and organized as a Massachusetts business trust. The Adviser, a newly organized entity, is in the process of registering under the Investment Advisers Act of 1940 and will serve as investment adviser to the Fund. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934, will distribute the Fund's shares. The Adviser and Distributor are both wholly-owned subsidiaries of The John Nuveen Company. Applicants request that the order also apply to any other registered closed-end investment company for which the adviser or the Distributor or any entity controlling, controlled by, or under common control with the Adviser or the Distributor acts as investment adviser or principal underwriter.¹

2. The Fund's investment objective is to seek a high level of current income, consistent with the preservation of capital. The Fund will invest primarily in senior secured adjustable rate loans made by commercial banks, investment banks, finance companies and other lenders to commercial and industrial borrowers ("Loans"). Under normal circumstances, at least 80% of the

¹ Any registered closed-end investment company relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each investment company presently intending to rely on the requested relief is listed as an applicant.

Fund's total assets will be invested in Loans. Up to 20% of the Fund's total assets may be held in other assets, such as cash, fixed-rate debt obligations, short- to medium-term notes, high yield securities, asset-backed securities, and equity securities.

3. The Fund intends to continuously offer its shares to the public at net asset value. The Fund's shares will not be offered or traded in the secondary market and will not be listed on any exchange or quoted on any quotation medium. The Fund intends to operate as an "interval fund" pursuant to rule 23c-3 under the Act and make periodic repurchase offers to its shareholders.

4. The Fund seeks the flexibility to be structured as a multiple-class investment company and currently intends to offer four classes or shares. The Fund will offer Class B shares at net asset value without a front-end sales charge, but subject to an early withdrawal charge ("EWC") on shares that are repurchased by the Fund within five years of the date of purchase. Class B shares will automatically convert to Class A shares six years after the date of purchase. The Fund may also offer Class A shares at net asset value plus a front-end sales charge, which may be waived for certain classes of purchasers in accordance with rule 22d-1 under the Act. The Fund will offer Class C shares at net asset value without a front-end sales charge, but subject to an EWC on shares that are repurchased by the Fund within one year of the date of purchase. Class A, Class B, and Class C shares will be subject to an annual shareholder service fee of up to 0.25% of average daily net assets. Class B and Class C shares will be subject to an annual distribution fee of up to .75% of average daily net assets. Applicants represent that the service and distribution fees will comply with the provisions of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. ("NASD") as if the Fund were an open-end investment company. The Fund also will offer Class R shares, which will be sold exclusively to certain eligible investors such as certain employees and directors of the Distributor or employees of authorized dealers and bank trust departments. Class R shares also may be purchased through registered investment advisers, certified financial planners and registered broker-dealers who charge asset-based or comprehensive "wrap" fees for their services. Class R shares will not be subject to distribution fees, service fees, front-end sales charges or EWCs. Applicants represent that the Fund will disclose in its prospectus the fees, expenses and other characteristics

of each class of shares offered for sale, as is required for open-end multi-class investment companies under Form N-1A.

5. All expenses incurred by the Fund will be allocated among the various classes of shares based on the net assets of the Fund attributable to each class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses attributable to that class. Expenses of the Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. The Fund may create additional classes of shares in the future that may have different terms from Class A, Class B, Class C, and Class R shares. Applicants state that the Fund will comply with the provisions of rule 18f-3 under the Act as if it were an open-end investment company.

6. The Fund may waive the EWC for certain categories of shareholders or transactions to be established from time to time. With respect to any waiver of, scheduled variation in, or elimination of the EWC, the Fund will comply with rule 22d-1 under the Act as if the Fund were an open-end investment company.

7. The Fund may offer its shareholders an exchange feature under which shareholders of the Fund may exchange their shares during the quarterly repurchase period for shares of the same class of other investment companies in the Nuveen group of investment companies. Fund shares so exchanged will be counted as part of the repurchase offer amount as specified in rule 23c-3 under the Act. Any exchange option will comply with rule 11a-3 under the Act as if the Fund were an open-end investment company. In complying with rule 11a-3, the Fund will treat the EWC as if it were a contingent deferred sales charge ("CDSC").

Applicant's Legal Analysis

Multiple Classes of Shares

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Fund may be prohibited by section 18(c).

2. Section 18(i) of the Act provides that each share of stock issued by a registered management company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that

multiple class of shares of the Fund may violate Section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. 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 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 request an exemption under section 6(c) of the Act from sections 18(c) and 18(i) of the Act to permit the Fund to issue multiple classes of shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements will permit the Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that their proposal does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f-3 under the Act. Applicants state that the Fund will comply with the provisions of rule 18f-3 as if it were an open-end investment company.

Early Withdrawal Charges

5. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company may purchase any securities of which it is the issuer except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the SEC may permit by rules and regulations or orders for the protection of investors.

6. Rule 23c-3 under the Act permits a registered closed-end investment company (an "interval fund") to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the fund. Rule 23c-3(b)(1) provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is reasonably intended to compensate the fund for expenses directly related to the repurchase.

7. Section 23(c)(3) provides that the SEC may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased. As noted above, section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that the 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 relief under sections 6(c) and 23(c) from rule 23c-3 to permit them to impose EWCs on shares submitted for repurchase that have been held for less than a specified period.

8. Applicants believe that the requested relief meets the standards of sections 6(c) and 23(c)(3). Rule 6c-10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that EWCs are functionally similar to CDSCs imposed by open-end investment companies under rule 6c-10 under the Act. Applicants state that EWCs may be necessary for the Distributor to recover distribution costs and that EWCs may discourage investors from moving their money quickly in and out of the Fund, a practice that applicants submit imposes costs on all shareholders. Applicants will comply with rule 6c-10 under the Act as if that rule applied to closed-end investment companies. The Fund also will disclose EWCs in accordance with the requirements of Form N-1A concerning CDSCs. Applicants further state that the Fund will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistent with the requirements of rule 22d-1 under the Act.

Asset-Based Distribution Fees

9. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the SEC issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d-1, the SEC considers whether the participation of the investment

company in a joint enterprise or joint arrangement is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

10. Rule 17d-3 under the Act provides an exemption from section 17(d) and rule 17d-1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b-1. Applicants also request an order under section 17(d) and rule 17d-1 to permit the Fund to impose asset-based distribution fees. Applicants have agreed to comply with rules 12b-1 and 17d-3 as if those rules applied to closed-end investment companies.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c-10, 11a-3, 12b-1, 17d-3, 18f-3, and 22d-1 under the Act and NASD Conduct Rule 2830(d), as amended from time to time, as if those rules applied to closed-end investment companies.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 99-26252 Filed 10-7-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27080]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

October 1, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 26, 1999, to the Secretary,

Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 26, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Alabama Power Company (70-9547)

Alabama Power Company ("APC"), 600 North 18th Street, Birmingham, Alabama 35291, a wholly owned public utility subsidiary of The Southern Company, a registered holding company, has filed an application-declaration under sections 9(a), 10 and 12(d) of the Act, and rules 44 and 54 under the Act.

By Alabama state statute ("Territorial Act"), Alabama grants the primary electric supplier within each municipality in Alabama the option ("Option") to acquire all distribution facilities of any secondary electric supplier used to supply retail electric service within the particular municipal limits.¹ The Territorial Act also establishes a method for determining the price to be paid for those facilities. APC and other primary electric suppliers have exercised the Option in a timely fashion.

APC has exercised the Option in those municipalities where it is the primary electric supplier, and, accordingly, proposes to purchase the distribution facilities of the secondary electric supplier in accordance with the provisions of the Territorial Act. The consideration APC will pay for these facilities will not exceed, in the aggregate, \$20 million. Once APC acquires the facilities, it will immediately connect them to other distribution facilities owned by APC.

In some municipalities APC is the secondary electric supplier, and has received timely notice of the exercise of the Option from the primary electric supplier in the particular municipality. In these cases, APC proposes to sell the facilities for amounts to be determined in accordance with the Territorial Act,

¹ The primary and secondary electric suppliers in the municipalities affected by the Territorial Act, other than Alabama Power, are comprised of electric membership corporations, rural electric cooperatives and/or municipally owned electric distributors.

which amounts will not exceed \$10 million in the aggregate. Once these facilities are sold, they will be disconnected from APC's distribution system.

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

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24067; 812-10986]

Schwab Capital Trust, et al.; Notice of Application

October 1, 1999.

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

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 ("Act") for an exemption from sections 12(d)(1)(A) and (B) 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 THE APPLICATION: The order would permit certain registered open-end management investment companies to acquire shares of other registered open-end management investment companies both within and outside the same group of investment companies.

APPLICANTS: Schwab Capital Trust, Schwab Investments, and The Charles Schwab Family of Funds (the "Trusts") and Charles Schwab Investment Management, Inc. ("Adviser").

FILING DATES: The application was filed on February 2, 1998 and amended on August 31, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

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 October 26, 1999, 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