

13. As long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable contract owners, the Advisory and insurance company general account will vote its shares in the same proportion as all contract owners having voting rights with respect to the Fund; provided, however, that the Adviser or insurance company general account shall vote its shares in such other manner as may be required by the Commission or its staff.

14. No less than annually, the Participants shall submit to the Board of a Fund such reports, materials or data as the Board may reasonably request so that such Board may carry out fully the obligations imposed upon it by the conditions contained in this Application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participating Insurance Companies and Plans to provide these reports, materials and data upon reasonable request of a Board shall be a contractual obligation of all Participating Insurance Companies and any Plan that has executed a participation agreement under the agreements governing their participation in the Fund.

15. Any shares of a Fund purchased by the Adviser or its affiliates will be automatically redeemed if and when the Adviser's investment advisory agreement terminates, to the extent required by applicable Treasury regulations. Neither the Adviser nor its affiliates will sell such shares of the Fund to the public.

16. A Participating Insurance Company, or any affiliate, will maintain at its home office, available to the Commission: (a) A list of its officers, directors and employees who participate directly in the management or administration of the Funds or any variable annuity or variable life insurance separate account, organized as a unit investment trust, that invests in the Funds and/or (b) a list of its agents who, as registered representatives, offer and sell the variable annuity and variable life contracts funded through such a separate account. These individuals will continue to be subject to the automatic disqualification provisions of Section 9(a).

### Conclusion

For the reasons and upon the facts summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly

intended by the policy and provisions of the 1940 Act.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-9181 Filed 4-12-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 24383, 812-11614]**

### Endeavor Series Trust, et al.; Notice of Application

April 10, 2000.

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

**ACTION:** Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for exemption from sections 12(d)(1)(A) and (B) of the Act, under section 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

#### SUMMARY OF THE APPLICATION:

Applicants request an order that would permit certain registered open-end management investment companies to invest uninvested cash and cash collateral in affiliated money market funds in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

**APPLICANTS:** Endeavors Series Trust (the "Trust"), all existing and future series of the Trust, PFL Endeavor Target Account, AUSA Endeavor Target Account (together with the PFL Endeavor Target Account, the "Accounts"), all existing and future subaccounts (and portfolios thereof) of the Accounts, and any other registered open-end management investment company and its series that are currently or in the future advised by Endeavor Management Co. (the "Adviser") or any entity controlling, controlled by, or under common control with the Adviser (collectively, the "Funds"), and the Adviser.

**FILING DATES:** The application was filed on May 21, 1999, and amended on November 5, 1999. 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 April 28, 2000, 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, Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicants: Trust and Adviser, 2101 East Coast Highway, Suite 300, Corona del Mar, California 92625; Accounts, 4333 Edgewood Road, N.E., Cedar Rapids, Iowa 52499-0001.

**FOR FURTHER INFORMATION CONTACT:** Sara Crovitz, Senior Counsel, at (202) 942-0667, or Michael W. Mundt, 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 Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549-0102 (tel. 202-942-8090).

### Applicants' Representations

1. The Trust is organized as a Massachusetts business trust and is an open-end management investment company registered under the Act. The shares of the Trust are sold exclusively to insurance company separate accounts that fund variable annuity and variable life contracts. The Trust currently consists of fourteen series, one of which is a money market fund subject to rule 2a-7 under the Act (together with any future Funds that are money market funds, the "Money Market Funds;" all other Funds that are not money market funds are collectively referred to as the "Non-Money Market Funds").<sup>1</sup> The PFL Endeavor Target Account and AUSA Endeavor Target Account are managed separate accounts established by PFL Life Insurance Company and AUSA Life Insurance Company, respectively, and are each divided into two non-money

<sup>1</sup> All existing investment companies that currently intend to rely on the order have been named as applicants, and any other existing or future registered open-end management investment companies that subsequently rely on the order will comply with the terms and conditions in the application.

market subaccounts with multiple portfolios. The Accounts are open-end management investment companies registered under the Act. The Adviser serves as investment manager to each Fund and is registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"). The Advisers selects other affiliated and unaffiliated investment advisers registered under the Advisers Act ("Subadvisers") to manage the portfolio for each Fund.

2. Applicants state that each Non-Money Market Funds has, or may be expected to have, uninvested cash ("Uninvested Cash") held by its custodian. Uninvested Cash may result from a variety of sources, including dividends or interest received from portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, and new investor capital. The Non-Money Market Funds also may participate in a securities lending program that may be developed in the future under which a Non-Money Market Fund may lend its portfolio securities to registered broker-dealers or other institutional investors ("Securities Lending Program"). Before a Fund participates in a Securities Lending Program, it will select a securities lending agent that is not affiliated with the Adviser, Subadvisers, or any of their affiliates. Any loans would be continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans could include cash ("Cash Collateral," and together with Uninvested Cash, "Cash Balances").

3. Applicants request an order to permit a Non-Money Market Fund to use its Cash Balances to purchase and redeem shares of a Money Market Fund, and the Money Market Fund to sell shares to and redeem shares as requested by the Non-Money Market Fund. Applicants believe that the ability to invest Cash Balances in Money Market Funds will benefit the Non-Money Market Funds by providing higher rates of return, ready liquidity, and increased diversification.

#### Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if the securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or, together with the securities of other acquired investment companies, 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)(J) of the Act provides that the Commission may exempt any persons or transactions from any provision of section 12(d)(1) if the exemption is consistent with the public 12(d)(1)(J) to permit the Non-Money Market Funds to invest Cash Balances in the Money Market Funds in excess of the limitations in sections 12(d)(1)(A) and (B).

3. Applicants submit that the proposed transactions do not implicate the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that each of the Money Market Funds will be managed specifically to maintain a highly liquid portfolio and will not be susceptible to undue control due to the threat of large scale redemptions. Applicants also submit that there will be no layering of fees because no sales load, redemption fee or assets based distribution fee will be charged in connection with the purchase and sale of shares of the Money Market Funds. To the extent that both a Money Market Funds and Non-Money Market Fund charge a service fee as defined in rule 2830 of the conduct rules of the National Association of Securities Dealers ("NASD Conduct Rules"), the Money Market Fund will waive its service fee with respect to shares purchased by a Non-Money Market Fund or the Adviser will waive its advisory fee for each Non-Money Market Fund in an amount that offsets the amount of the fee incurred by the Non-Money Market Fund. Before approving any advisory contract for a Non-Money Market Fund, the board of trustees or board of managers of a Fund ("Board"), including a majority of the trustees or managers who are not "interested persons" as defined in section 2(a)(19) of the Act ("Independent Board Members"), will consider to what extent, if any, the advisory fees charged to the Non-Money Market Fund should be reduced to account for the reduced services provided to the Non-Money Market Fund by the Adviser and Subadviser as a result of Uninvested Cash being invested in the Money Market Fund. No Money Fund will acquire shares of any other investment company in excess of the limits in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of the affiliated person, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any person directly or indirectly controlled by, or under common control with the investment company. Applicants state that because the Funds share a common investment manager and have substantially identical Boards, each Fund may be deemed to be under common control and affiliated persons of one another. As a result, section 17(a) would prohibit the sale of the shares of a Money Market Fund to a Non-Money Market Fund and the redemption of the shares by the Non-Money Market Funds.

5. Section 17(b) of the Act provides that the Commission may exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and the general purpose of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions from any provision of the Act if 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.

6. Applicants submit that the request for relief satisfies the standards of sections 17(b) and 6(c). Applicants state that the proposed transactions are reasonable and fair and would not involve overreaching because shares of the Money Market Fund will be purchased and redeemed by the Non-Money Market Funds at net asset value. Applicants also note that Non-Money Market Funds will retain their ability to invest their Cash Balances directly in money market instruments in accordance with their investment objectives and policies. Applicants state that each Money Market Fund may discontinue selling its shares to any of the Non-Money Market Funds if the Board of the Money Market Fund determines that the sale would adversely affect the Money Market Fund's portfolio management and operations.

7. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of an 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. Applicants state that the Funds, by participating in the proposed transactions, and the Adviser and Subadvisers, by managing the proposed transactions, could be deemed to be participating in a joint arrangement within the meaning of section 17(d) and rule 17d-1.

8. In considering whether to permit a joint transaction under rule 17d-1, the Commission considers whether the investment company's participation in joint enterprise 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. Applicants submit that the Funds will participate in the proposed transactions on the same basis and will be indistinguishable from any other shareholder and that the transactions will be consistent with the Act.

#### Applicants' Conditions

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

1. The shares of the Money Market Funds sold to and redeemed as requested by the Non-Money Market Funds will not be subject to a sales load, redemption fee or distribution fee under a plan adopted in accordance with rule 12b-1 under the Act. To the extent that both a Money Market Fund and a Non-Money Market Fund may charge a service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), the Money Market Fund will waive its service fee with respect to shares purchased by a Non-Money Market Fund or the Adviser will waive its advisory fee for each Non-Money Market Fund in an amount that offsets the amount of the service fee incurred by the Non-Money Market Fund.

2. Before the next meeting of the Board of a Non-Money Market Fund is held for the purpose of voting on an advisory contract under section 15 of the Act, the Adviser and Subadviser will provide the Board with specific information regarding the approximate costs to the Adviser and Subadviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Non-Money Market Fund that can be expected to be invested in the Money Market Funds. Before approving any advisory contract for a Non-Money Market Fund, the Board, including a majority of the Independent Board Members, shall consider to what extent,

if any, the advisory fees charged to the Non-Money Market Fund by the Adviser and the Subadviser should be reduced to account for the reduced services provided to the Non-Money Market Fund by the Adviser and the Subadviser as a result of Uninvested Cash being invested in the Money Market Funds. The Non-Money Market Fund's minute books will record fully the Board's considerations in approving the advisory contract, including the considerations relating to fees referred to above.

3. Each Non-Money Market Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Non-Money Market Fund's aggregate investment of Uninvested Cash in the Money Market Funds does not exceed 25 percent of the Non-Money Market Fund's total assets. For purposes of this limitation, each Money Market Fund or series thereof will be treated as a separate investment company.

4. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Non-Money Market Fund's respective investment restrictions, if any, and will be consistent with each Non-Money Market Fund's policies as set forth in its prospectus and statement of additional information.

5. The Non-Money Market Funds, the Money Market Funds, and any future Fund that may rely on the order will be advised by the Adviser or a person controlling, controlled by, or under common control with the Adviser.

6. No Money Market Fund will acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in the Securities Lending Program, a majority of its Board, including a majority of the Independent Board Members, will approve the Fund's participation in the Securities Lending Program. The Board also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds in the best interest of the shareholders of the Fund.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 00-9252 Filed 4-12-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SMALL BUSINESS ADMINISTRATION

### Interest Rates

The Small Business Administration publishes an interest rate called the optional "peg" rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 6.500 (6½) percent for the April-June quarter of FY 2000.

**Arnold S. Rosenthal,**

*Acting Deputy Associate Administrator for Financial Assistance.*

[FR Doc. 00-9125 Filed 4-12-00; 8:45 am]

**BILLING CODE 8025-01-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG-2000-7222]**

**Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers 2115-0017, 2115-0611, 2115-0573, and 2115-0630**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to request the approval of OMB for the renewal of four Information Collection Requests (ICRs). These ICRs comprise: (1) Regattas and Marine Parades; (2) Boat Owner's Report, Possible Safety Defect; (3) Labeling Requirements in 33 CFR Parts 181 and 183; and (4) International Safety Management Code Audit Reports. Before submitting the ICRs to OMB, the Coast Guard is asking for comments on the collections described below.

**DATES:** Comments must reach the Coast Guard on or before June 12, 2000.

**ADDRESSES:** You may mail comments to the Docket Management System (DMS) [USCG-2000-7222], U.S. Department of Transportation (DOT), room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001, or deliver them to room PL-401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

The Docket Management Facility maintains the public docket for these requests. Comments will become part of this docket and will be available for