capco

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1400 Twentieth Street, South • P. O. Box 3435 / Birmingham, Alabama 35255 • Phone 205 • 933-7281

S. G. LEYSHOCK
Vice President—Operations

May 15, 1981

Mr. Joseph C. Jackson
President
A/C Pipe Producers Association
Suite 1008
1600 Wilson Boulevard
Arlington, Virginia 22209

Reference: Standards Update Binder

Dear Joe:

I am in receipt of the Standards Update binder and will be responsible for its upkeep at Capco.

I was not aware that this was in the works, but I would like to congratulate you on an excellent idea. I am sure that this will be extremely helpful in trying to keep up with all of the organizations that we have to contend with.

Sincerely,

S. G. Leyshock

S. G. Leyshock
Vice President-Operations

SGL/gj

Copy to: Mr. I. L. Taylor

PLAINTIFF'S EXHIBIT
CAP-1280

A/C Pipe
Producers Association

Internal Correspondence

TO Executive Committee

J. F. Welch

FROM J. F. Welch, Vice President

DATE December 7, 1982

SUBJECT

JF

ACTION REQUIRED: Review for information

Enclosed for your information is the final issuance of Office of Management and Budget (OMB) Circular Number 8-119, "Federal Participation in the Development and Use of Voluntary Standards."

JFW/ajb

Enclosure

cc: A. Kahn, Esq.

copies to: Executive Committee

L. Ambler
J. Cran
~~L.~~ Taylor

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Chrono

CAPCO JEN 0033211

held November 15, 1982, from 9:00 a.m. to 5:00 p.m. and November 16 to 20, 1982 from 9:00 a.m. to 5:30 p.m., in the 11th floor reception area of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C., 20506.

This meeting is for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 21, 1982.

[FR Doc. 82-30001 Filed 10-29-82; 8:45 am]

BILLING CODE 7537-01-M

OFFICE OF MANAGEMENT AND BUDGET

Issuance of Circular No. A-119, "Federal Participation in the Development and Use of Voluntary Standards"

AGENCY: Office of Management and Budget.

ACTION: Final Issuance of OMB Circular No. A-119, "Federal Participation in the Development and Use of Voluntary Standards."

SUMMARY: This OMB Circular provides policy and administrative guidance to Federal agencies on using voluntary standards for procurement and regulatory purposes, on participating with private sector organizations to develop such standards, and coordinating Executive Branch participation in the development of voluntary standards. Implementation of this Circular is expected to result in reduced costs to the Government in developing and maintaining standards for products, systems and services.

EFFECTIVE DATE: This Circular, which supersedes OMB Circular No. A-119, dated January 17, 1980, is effective upon publication.

FOR FURTHER INFORMATION CONTACT: David F. Baker, Office of Federal Procurement Policy, Office of Management and Budget, Washington, DC 20503 (202) 395-7207.

SUPPLEMENTARY INFORMATION: On April 21, 1982, the Office of Management and Budget published a draft Circular, subject as above, for a 60-day period of public and agency comment. Comments were received from more than 120 individuals and organizations, including Federal agencies, business firms, industry associations, professional groups and private citizens.

There follows a summary of the major comments grouped by subject and a response to each—including a brief description of changes made as a result of the comments. Many other changes of a less significant character were made to increase clarity, simplicity, precision and readibility, and to reduce the burdens of compliance as much as possible.

A. Procedural Criteria Imposed on Standards Developers

Comment: Several commenters objected to OMB's deletion of specific procedural criteria which the previous version of the Circular imposed on voluntary standards bodies as a precondition to Federal participation. They argued that such criteria—intended to increase public participation and openness—would help to minimize the potential for anti-trust activities. Other commenters suggested that while such procedures should not be mandatorily imposed, OMB should instruct agencies to encourage private standards developers to follow such procedures.

Response: With regard to the inclusion of procedural criteria and their mandatory imposition on standard developers, we have concluded that imposition of the mandatory procedures contained in the previous edition of the Circular is inappropriate, burdensome and costly and that the question of imposing such criteria is peripheral to the fundamental aims of the Circular. We do agree that, as with any human endeavor, the voluntary standards development process is vulnerable to abuse. Consequently, we have cautioned Federal agencies to beware of such potential (Para. 7). We have also provided guidance to agencies in the form of a letter from the Department of Justice, dated June 22, 1982, which discusses suggested agency approaches to the question of public participation in private sector standards development.

B. Regulatory Applications

Comment: Some commenters suggested that the Circular should be limited to procurement applications, and that Federal agencies should not be required to use voluntary standards for regulatory purposes. Some commenters suggested, in addition, that the Circular should not apply to "independent regulatory agencies".

Response: We believe the benefits to be derived from the procurement use of standards are equally valid for regulatory applications—particularly the benefits of assuring private sector input into Federal regulatory activities while reducing the potential for duplicating existing, adequate voluntary standards with Government standards. With regard to the second concern, the Circular does not "require" Federal agencies to use voluntary standards for regulatory purposes. It establishes a policy preference in that regard but leaves to the agencies, themselves, the decision as to whether to adopt a given voluntary standard for a specific Federal regulatory purpose. (The legal requirements associated with such adoption, such as those of the Administrative Procedures Act, will, of course, continue to apply.) We believe such an approach is entirely appropriate with respect to independent regulatory agencies as with the rest of the Executive Branch.

C. Role of the Department of Commerce

Comment: Several commenters objected to the requirements that the Department of Commerce maintain listings of (1) voluntary and Government standards, (2) voluntary standards bodies, and (3) those standards organizations with which Federal agencies interact—on the grounds that this would result in extensive and costly reporting requirements. Other commenters suggested that the agency reporting requirements contained in the Circular were, themselves, overly burdensome.

Response: We agree. The requirements to maintain various listings have been eliminated. The provisions dealing with reports on agency implementation of the Circular have been revised to require that reports be summary, as opposed to detailed, in nature.

D. Voluntary Dispute Resolution Service

Comment: Some commenters objected to our deletion of the requirement that the Department of Commerce establish a program to make available a "voluntary dispute resolution service" to handle precedural complaints brought by

CAPCO JEN 0033212

interested parties against voluntary standards bodies. Those commenters suggested that such a mechanism would provide an impartial means of resolving standards disputes without costly and lengthy litigation.

Response: While we take no position on the substantive merits of such a mechanism, we are satisfied that the requirement to establish such a service is not an appropriate element for inclusion in this Circular. Agencies with mission concerns in this area (e.g., Commerce, Justice, etc.) may, of course, consider establishing such a service as it is within their province to do so. The creation of the mechanism is clearly peripheral to the policy issues dealt with in the Circular, however, which are limited to Federal participation in the development and use of voluntary standards.

E. Single Federal Position

Comment: Many commenters suggested that the provisions of the Circular that required agencies to coordinate their views and express a single Federal position in private sector standards development activities were unnecessary and unworkable—and that establishment of a mechanism to achieve these purposes would be costly and lead to lengthy delays in the standards development process.

Response: We continue to believe that agencies should endeavor to coordinate their views and present single Federal positions in matters of paramount importance. We agree, however, that the requirement to do so in all such instances is unreasonable and could lead to bureaucratic delays. Consequently, we have eliminated the requirement that Federal positions must be developed in all instances, as well as those provisions which would have required the Secretary of Commerce to appoint a "lead" agency when disagreements as to the nature of the Government's position occurred on a given issue. We continue to expect agency representatives to make a reasonable effort to present a single Federal position reflective of the public interest on matters on paramount interest in those standards activities wherein two or more agencies participate.

Candice C. Bryant,

Acting Deputy Assistant, Director for Administration.

Executive Office of the President

Office of Management and Budget

October 26, 1982.

Memorandum to Heads of Executive Departments and Agencies

From: David A. Stockman

Subject: OMB Circular No. A-119, "Federal Participation in the Development and Use of Voluntary Standards"

Attached, for your implementation, is a revision to OMB Circular No. A-119 which provides guidance to agencies in working with, and using the products of, private sector standards organizations. The effect of this revision is to eliminate the costly, unnecessary, and burdensome aspects of the Circular, while continuing to encourage agency participation in the development of private sector standards.

Also attached for your information and use is a letter, dated June 22, 1982, from the Department of Justice, which provides guidance in the implementation of the Circular—particularly as it relates to working with private sector groups to develop needed standards.

Executive Office of the President

Office of Management and Budget

October 26, 1982.

Circular No. A-119—Revised

To the Heads of Executive Departments and Establishments

Subject: Federal Participation in the Development and Use of Voluntary Standards

1. *Purpose.* This Circular establishes policy to be followed by executive agencies in working with voluntary standards bodies. It also establishes policy to be followed by executive branch agencies in adopting and using voluntary standards.

2. *Rescissions.* This Circular supersedes OMB Circular No. A-119, dated January 17, 1980, which is rescinded.

3. *Background.* Many Governmental functions involve products or services that must meet reliable standards. Many such standards, appropriate or adaptable for the Government's purposes, are available from private voluntary standards bodies. Government participation in the standards-related activities of these voluntary bodies provides incentives and opportunities to establish standards that serve national needs, and the adoption of voluntary standards, whenever practicable and appropriate, eliminates the cost to the Government of developing its own standards. Adoption of such standards also furthers the policy of reliance upon the private sector to supply Government needs for goods and services, as enunciated in OMB Circular No. A-76.

4. *Applicability.* This Circular applies to all executive agency participation in voluntary standards activities, domestic and international, but not to activities carried out pursuant to treaties and international standardization agreements.

5. *Definitions.* As used in this Circular:

a. *Executive agency* (hereinafter referred to as "agency") means any executive department, independent commission, board, bureau, office, agency, Government-owned or—controlled corporation or other establishment of the Federal Government, including regulatory commission or board. It does not include the legislative or judicial branches of the Federal Government.

b. *Standard* means a prescribed set of rules, conditions, or requirements concerned with the definition of terms; classification of components; delineation of procedures; specification of dimensions, materials, performance, design, or operations; measurement of quality and quantity in describing materials, products, systems, services, or practices; or descriptions of fit and measurement of size.

c. *Voluntary standards* are established generally by private sector bodies and are available for use by any person or organization, private or governmental. the term includes what are commonly referred to as "industry standards" as well as "consensus standards", but does not include professional standards of personal conduct, institutional codes of ethics, private standards of individual firms, or standards mandated by law, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351.

d. *Government standards* include individual agency standards and specifications as well as Federal and Military standards and specifications.

e. *Voluntary standards bodies* are private sector domestic or multinational organizations—such as nonprofit organizations, industry associations, professional and technical societies, institutes, or groups, and recognized test laboratories—that plan, develop, establish, or coordinate voluntary standards.

f. *Standards-developing groups* are committees, boards, or any other principal subdivisions of voluntary standards bodies, established by such bodies for the purpose of developing, revising, or reviewing standards, and which are bound by the procedures of those bodies.

g. *Adoption* means the use of the latest edition of a voluntary standard in whole, in part, or by reference for procurement purposes and the inclusion of the latest edition of a voluntary standard in whole, in part, or by reference in regulation(s).

h. *Secretary* means the Secretary of Commerce or that Secretary's designee.

6. *Policy.* It is the policy of the Federal Government in its procurement and regulatory activities to:

a. Rely on voluntary standards, both domestic and international, whenever feasible and consistent with law and regulation pursuant to law;

b. Participate in voluntary standards bodies when such participation is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget resources; and

c. Coordinate agency participation in voluntary standards bodies so that (1) the most effective use is made of agency resources and representatives; and (2) the views expressed by such representatives are in the public interest and, as a minimum, do not conflict with the interests and established views of the agencies.

7. *Policy Guidelines.* In implementing the policy established by this Circular, agencies should recognize the positive contribution of standards development and related activities.

When properly conducted, standards development can increase productivity and efficiency in industry, expand opportunities for international trade, conserve resources, and improve health and safety. It also must be recognized, however, that these activities, if improperly conducted, can suppress free and fair competition, impede innovation and technical progress, exclude safer and less expensive products, or otherwise adversely affect trade, commerce, health, or safety. Full account shall be taken of the impact on the economy, applicable Federal laws, policies, and national objectives, including, for example, laws and regulations relating to antitrust, national security, small business, product safety, environment, technological development, and conflicts of interest. It should also be noted, however, that the provisions of this Circular are intended for internal management purposes only and are not intended to (1) create delay in the administrative process, (2) provide new grounds for judicial review, or (3) create legal rights enforceable against agencies or their officers. The following policy guidelines are provided to assist and govern implementation of the policy enunciated in paragraph 6.

a. *Reliance on Voluntary Standards.* (1) Voluntary standards that will serve agencies' purposes and are consistent with applicable laws and regulations should be adopted and used by Federal agencies in the interests of greater economy and efficiency, unless they are specifically prohibited by law from doing so.

(2) Voluntary standards should be given preference over non-mandatory Government standards unless use of such voluntary standards would adversely affect performance or cost, reduce competition, or have other significant disadvantages. Agencies responsible for developing Government standards should review their existing standards at least every five years and cancel those for which an adequate and appropriate voluntary standard can be substituted.

(3) In adopting and using voluntary standards, preference should be given to those based on performance criteria when such criteria may reasonably be used in lieu of design, material, or construction criteria.

(4) Voluntary standards adopted by Federal agencies should be referenced, along with their dates of issuance and sources of availability, in appropriate publications, regulatory orders, and related in-house documents. Such adoption should take into account the requirements of copyright and other similar restrictions.

(5) Agencies should not be inhibited, if within their statutory authorities, from developing and using Government standards in the event that voluntary standards bodies cannot or do not develop a needed, acceptable standard in a timely fashion. Nor should the policy contained in this Circular be construed to commit any agency to the use of a voluntary standard which, after due consideration, is, in its opinion, inadequate, does not meet statutory criteria, or is otherwise inappropriate.

b. *Participation in Voluntary Standards Bodies.* (1) Participation by knowledgeable agency employees in the standards activities of voluntary standards bodies and standards-developing groups should be actively encouraged and promoted by agency officials when consistent with the provisions of paragraph 6b.

(2) Agency employees who, at Government expense, participate in standards activities of voluntary standards bodies and standards-developing groups should do so as specifically authorized agency representatives.

(3) Agency participation in voluntary standards bodies and standards-developing groups does not, of itself, connote agency agreement with, or endorsement of, decisions reached by such bodies and groups or of standards approved and published by voluntary standards bodies.

(4) Participation by agency representatives should be aimed at contributing to the development of voluntary standards that will eliminate the necessity for development or maintenance of separate Government standards.

(5) Agency representatives serving as members of standards-developing groups should participate actively and on a basis of equality with private sector representatives. In doing so, agency representatives should not seek to dominate such groups. Active participation is intended to include full involvement in discussions and technical debates, registering of opinions and, if selected, serving as chairpersons or in other official capacities. Agency representatives may vote, in accordance with the procedures of the voluntary standards body, at each stage of standards development, unless specifically prohibited from doing so by law or their agencies.

(6) The number of individual agency participants in a given voluntary standards activity should be kept to the minimum required for effective presentation of the various program, technical, or other concerns of Federal agencies.

(7) The providing of Agency support to a voluntary standards activity should be limited to that which is clearly in furtherance of an agency's mission and responsibility. Normally, the total amount of Federal support should be no greater than that of all private sector participants in that activity except when it is in the direct and predominant interest of the Government to develop a standard or revision thereto and its development appears unlikely in the absence of such support. The form of agency support, subject to legal and budgetary authority, may include:

(a) Direct financial support: e.g., grants, sustaining memberships, and contracts;

(b) Administrative support: e.g., travel costs, hosting of meetings, and secretarial functions;

(c) Technical support: e.g., cooperative testing for standards evaluation and participation of agency personnel in the activities of standards-developing groups; and

(d) Joint planning with voluntary standards bodies to facilitate a coordinated effort in identifying and developing needed standards.

(8) Participation by agency representatives in the policymaking process of voluntary standards bodies, in accordance with the procedures of those bodies, is encouraged—particularly in matters such as establishing priorities, developing procedures for preparing, reviewing, and approving standards, and creating standards-developing groups. In order to maintain the private, nongovernmental nature of such bodies, however, agency representatives should refrain from decisionmaking involvement in the internal day-to-day management of such bodies (e.g., selection of salaried officers and employees, establishment of staff salaries and administrative policies).

(9) This Circular does not provide guidance concerning the internal operating procedures that may be applicable to voluntary standards bodies because of their relationships to agencies under this Circular. Agencies should, however, carefully consider what laws or rules may apply in particular instance because of these relationships. For example, these relationships may involve the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), or a provision of an authorizing statute for a particular agency. Agencies are best able to determine what laws and policies should govern particular relationships and to assess the extent to which competition may be enhanced and cost-effectiveness increased. Questions relating to anti-trust implications of such relationships should be addressed to the Attorney General.

8. *Responsibilities.* a. The Secretary will:

(1) Coordinate and foster executive branch implementation of the policy in paragraph 6 of this Circular, and may provide administrative guidance to assist agencies in implementing paragraph 8.b. (5) of this Circular;

(2) Establish an interagency consultative mechanism to advise the Secretary and agency heads in implementing the policy contained herein. That mechanism shall provide for participation by all affected agencies and ensure that their views are considered; and

(3) Report to the Office of Management and Budget concerning implementation of this Circular.

b. The heads of agencies concerned with standards will:

(1) Implement the policy in paragraph 6 of this Circular in accordance with the policy guidelines in paragraph 7 within 120 days of issuance;

(2) Establish procedures to ensure that agency representatives participating in voluntary standards bodies and standards-developing groups will, to the extent possible, ascertain the views of the agency on matters of paramount interest and will, as a minimum, express views that are not inconsistent or in conflict with established agency views;

(3) Endeavor, when two or more agencies participate in a given voluntary standards body or standards-developing group, to coordinate their views on matters of paramount importance so as to present, whenever feasible, a single unified position.

(4) Cooperate with the Secretary in carrying out his responsibilities under this Circular; and

(5) Consult with the Secretary, as necessary, in the development and issuance of, internal agency procedures and guidance implementing this Circular, and submit, in response to the request of the Secretary, summary reports on the status of agency interaction with voluntary standards bodies.

9. *Reporting Requirements.* Three years from the date of issuance of this Circular, and each third year thereafter, the Secretary will submit to the Office of Management and Budget a brief summary report on the status of agency interaction with voluntary standards bodies. As a minimum, the report will include the following information.

a. The nature and extent of agency participation in the development and utilization of voluntary standards; and

b. An evaluation of the effectiveness of the policy promulgated in this Circular and recommendations of change.

10. *Policy Review.* The policy contained in this Circular shall be reviewed for effectiveness by the Office of Management and Budget three years from the date of issuance.

11. *Inquiries.* For information concerning this Circular, contact the Office of Management and Budget, Office of Federal Procurement Policy, telephone 202/395-7207.

David A. Stockman,

Director.

Department of Justice

Antitrust Division

Office of the Assistant Attorney General

June 22, 1982.

Mr. Donald E. Sowle,

Administrator for Federal Procurement Policy

Office of Management and Budget

Washington, D.C. 20503

Dear Mr. Sowle: I am writing to express the views of the Department of Justice on competition policy issues raised by the Revised OMB Circular No. A-119, "Federal Participation in the Development and Use of Voluntary Standards" published for comment in the Federal Register on April 29, 1982 (47 Fed. Reg. 16, 919).

In our comments on previous drafts of the Circular, dated December 26, 1978 and June 13, 1978, we have supported a policy of federal adoption of privately developed standards when appropriate. Through participation in, and support for, private standards making activities, agencies may benefit greatly from private expertise and will avoid the wasteful duplication of cost and effort involved in developing their own in-house standards. The Department of Justice is not opposed to the policy announced in Revised OMB Circular A-119, which would eliminate the rigid "due process" precondition to federal participation in private standards activities. Such a precondition is overly restrictive, since as a practical matter federal agencies will often be required to adopt the standards developed regardless of federal participation in their development. Thus, in our view, the better solution is to participate in standards setting bodies and work within them to assure that appropriate procedures are adopted.

The Department believes that federal participants should encourage the adoption of procedures to foster access to standard setting activities and transparency in such activities. Such procedures facilitate the development of standards acceptable to the entire affected industry as well as to consumers. In particular, notice and opportunity for comment help assure that standards will be based on adequate information as to their utility and consequences. Moreover, it is especially important that performance criteria be given a prominent, perhaps predominant, place in any standards activity. Federal agency representatives, therefore, should advocate, as strongly as possible, procedures designed to assure that a broad range of information is solicited, and that performance criteria are central elements of the resulting standards.

In addition to the practical advantages of open standards proceedings, such safeguards would mitigate the substantial anticompetitive potential inherent in private standards groups. The importance of assuring adequate consideration of competition in the work of private standards bodies was noted recently by the Supreme Court in *American Society of Mechanical Engineers, Inc. v. Hydrolevel Corp.* The case involved a product standard which had been adopted in 46 states and all but one of the Canadian provinces. The Court observed that organizations creating such standards could be "rife with opportunities for anticompetitive activity." Federal agencies ought to strongly encourage these private groups to ensure consideration of all relevant viewpoints and interests including those of consumers, and potential or existing industry participants.

This country's international obligations and policy, as expressed in the Standards Code negotiated during the Tokyo Round of the Multilateral Trade Negotiations, *see* the Agreement on Technical Barriers to Trade, codified at 19 U.S.C.A. 2531 *et seq.* (1980), provide another important reason for federal agency participants to encourage the adoption of open procedures for private standards groups. This Code, approved by Congress as well as by our leading trading partners, seeks to prevent the creation of product standards which discriminate against import competition. It requires central governmental bodies to provide notice and opportunity to comment in their own standards making activities, and encourages governments to take reasonable measures to ensure that non-governmental bodies provide similar protection. Where the federal government is in fact involved in the private group, the obligations of the Standards Code would appear even stronger. Open procedures, specifically adequate notice and opportunity to comment, would further the objectives of the Standards Code, and would substantially reduce the possibility that discriminatory, anticompetitive standards will be developed.

The Circular would encourage use of voluntary standards for regulatory and other purposes. Although we applaud this expansion of the scope of the Circular, we believe that broadened federal use of privately developed standards should be accompanied with broad federal awareness of the practical and competitive advantages of industry-wide access to private standards bodies. Such access is an asset to federal participation in private standards activities, but it is also of great importance when federal agencies, without participation in the process, merely adopt standards for procurement or regulatory use.

As we indicated in our previous comments, private activity is not, by virtue of governmental participation or approval, shielded from the antitrust laws. Federal agency participation in a standards body, however, may imply federal approval of the process and of the resulting standard, and perhaps lead private participants to become lax in their own antitrust scrutiny. To dispel any false impressions, federal agency representatives should inform private participants that federal participation does not remove antitrust concerns, as well as advocate that appropriate procedures be employed in the standards proceedings.

Sincerely yours,

Ronald G. Carr,

Acting Assistant Attorney General, Antitrust Division.

[FR Doc. 82-30017 Filed 10-29-82; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 12750; 812-5266]

Daily Tax Free Income Fund, Inc.; Filing of an Application

October 19, 1982.

Notice is hereby given that Daily Tax Free Income Fund, Inc., 100 Park Avenue, New York, N.Y. 10017 (the "Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 6, 1982, and an amendment thereto on October 18, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant and any additional separate portfolios that may be established by Applicant in the future, from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized as a corporation under the laws of Maryland on July 22, 1982, and that it registered under the Act on July 22, 1982. Although it will have initially only one investment portfolio the Board of