

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31282; 812-14279]

New Mountain Finance Corporation, et al.; Notice of Application

October 10, 2014.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 18(a) and 61(a) of the Act.

APPLICANTS: New Mountain Finance Corporation (the “Company”), New Mountain Finance Adviser BDC, L.L.C. (the “Investment Adviser”), New Mountain Finance SBIC G.P., L.L.C. (the “General Partner”), and New Mountain Finance SBIC, L.P. (“New Mountain SBIC”).

SUMMARY OF THE APPLICATION: The Company requests an order to permit it to adhere to a modified asset coverage requirement.

DATES: The application was filed on February 18, 2014, and amended on June 25, 2014, and September 4, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief 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 November 4, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to Rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, 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, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicants: Robert A. Hamwee, New Mountain Finance Corporation, 787 Seventh Avenue, 48th Floor, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: David Joire, Senior Counsel, at (202) 551-6866, or James M. Curtis, Branch Chief, at (202) 551-6712 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Applicants’ Representations

1. The Company, a Delaware corporation, is an externally managed, non-diversified, closed-end management investment company that has elected to be regulated as a business development company (“BDC”) under the Act.¹ The Company’s investment objective is to generate current income and capital appreciation through the sourcing and origination of debt securities at all levels of the capital structure, including first and second lien debt, notes, bonds and mezzanine securities. The Investment Adviser, a Delaware limited liability company, is the investment adviser to the Company. The Investment Adviser is registered under the Investment Advisers Act of 1940.

2. New Mountain SBIC, a Delaware limited partnership, received approval for a license from the Small Business Administration (“SBA”) to operate as a small business investment company (“SBIC”) under the Small Business Investment Act of 1958 (“SBIA”). New Mountain SBIC is excluded from the definition of investment company by section 3(c)(7) of the Act. The General Partner is the sole general partner of New Mountain SBIC and the Company is the sole member of the General Partner. The Company is the sole limited partner of New Mountain SBIC. The Company, directly or indirectly through the General Partner, wholly owns New Mountain SBIC.

Applicants’ Legal Analysis

1. The Company requests an exemption pursuant to section 6(c) of the Act from the provisions of sections 18(a) and 61(a) of the Act to permit it to adhere to a modified asset coverage requirement with respect to any direct or indirect wholly-owned subsidiary of the Company that is licensed by the SBA to operate under the SBIA as a SBIC and relies on Section 3(c)(7) for an exemption from the definition of “investment company” under the Act

¹ Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in section 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

(each, a “SBIC Subsidiary”).² Applicants state that companies operating under the SBIA, such as the SBIC Subsidiary, will be subject to the SBA’s substantial regulation of permissible leverage in their capital structure.

2. Section 18(a) of the Act prohibits a registered closed-end investment company from issuing any class of senior security or selling any such security of which it is the issuer unless the company complies with the asset coverage requirements set forth in that section. Section 61(a) of the Act makes section 18 applicable to BDCs, with certain modifications. Section 18(k) exempts an investment company operating as an SBIC from the asset coverage requirements for senior securities representing indebtedness that are contained in section 18(a)(1)(A) and (B).

3. Applicants state that the Company may be required to comply with the asset coverage requirements of section 18(a) (as modified by section 61(a)) on a consolidated basis because the Company may be deemed to be an indirect issuer of any class of senior security issued by New Mountain SBIC or another SBIC Subsidiary. Applicants state that applying section 18(a) (as modified by section 61(a)) on a consolidated basis generally would require that the Company treat as its own all assets and any liabilities held directly either by itself, by New Mountain SBIC, or by another SBIC Subsidiary. Accordingly, the Company requests an order under section 6(c) of the Act exempting the Company from the provisions of section 18(a) (as modified by section 61(a)), such that senior securities issued by each SBIC Subsidiary that would be excluded from its individual asset coverage ratio by Section 18(k) if it were itself a BDC would also be excluded from the Company’s consolidated asset coverage ratio.

4. Section 6(c) of the Act, in relevant part, permits the Commission to exempt any transaction or class of transactions 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 state that the requested relief satisfies the section 6(c) standard. Applicants contend that, because the SBIC

² All existing entities that currently intend to rely on the order are named as applicants. Any other existing or future entity that may rely on the order in the future will comply with the terms and condition of the order.

Subsidiary would be entitled to rely on section 18(k) if it were a BDC, there is no policy reason to deny the benefit of that exemption to the Company.

Applicants' Condition

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

The Company will not itself issue or sell any senior security and the Company will not cause or permit New Mountain SBIC or any other SBIC Subsidiary to issue or sell any senior security of which the Company, New Mountain SBIC or any other SBIC Subsidiary is the issuer except to the extent permitted by Section 18 (as modified for BDCs by Section 61); provided that, immediately after the issuance or sale of any such senior security by any of the Company, New Mountain SBIC or any other SBIC Subsidiary, the Company, individually and on a consolidated basis, shall have the asset coverage required by Section 18(a) (as modified by Section 61(a)). In determining whether the Company, New Mountain SBIC and any other SBIC Subsidiary on a consolidated basis have the asset coverage required by Section 18(a) (as modified by Section 61(a)), any senior securities representing indebtedness of New Mountain SBIC or another SBIC Subsidiary if that SBIC Subsidiary has issued indebtedness that is held or guaranteed by the SBA shall not be considered senior securities and, for purposes of the definition of "asset coverage" in Section 18(h), shall be treated as indebtedness not represented by senior securities.

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

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-31268A; File No. 812-14250]

Managed Portfolio Series, et al.; Notice of Application

October 15, 2014.

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

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") seeking exemptions from sections 9(a), 13(a), 15(a), and 15(b) of the Act and rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

APPLICANTS: Managed Portfolio Series (the "Trust"), U.S. Bancorp Fund Services, LLC ("USBFS"), and Tortoise Capital Advisors, L.L.C. ("Tortoise").

SUMMARY OF APPLICATION: Applicants request an order under section 6(c) of the Act granting exemptions from the provisions of sections 9(a), 13(a), 15(a), and 15(b) of the Act and rules 6e-2(b)(15) and 6e-3(T)(b)(15) (or any comparable provisions of a permanent rule that replaces rule 6e-3(T)) thereunder to permit an existing series of the Trust, Tortoise VIP MLP & Pipeline Portfolio ("Existing Variable Fund"), and/or any Future Variable Fund¹ to be sold to and held by: (i) Separate accounts registered as investment companies or separate accounts that are not registered as investment companies under the Act pursuant to exemptions from registration under section 3(c) of the Act that fund variable annuity contracts ("VA Accounts") and variable life insurance contracts ("VLI Accounts") (VA Accounts and VLI Accounts together "Separate Accounts") issued by both affiliated life insurance companies and unaffiliated life insurance companies ("Participating Insurance Companies"); (ii) trustees of qualified group pension or group retirement plans ("Qualified Plans") outside the Separate Account context; (iii) investment adviser(s) or affiliated person(s) of the investment adviser(s) (each an "Adviser") to a Variable Fund for the purpose of providing seed capital to a series of a Variable Fund; and (iv) general accounts ("General Accounts") of insurance company depositors of VA Accounts and/or VLI Accounts.

DATES: Filing Date: The application was filed on December 13, 2013, and amended on July 23, 2014 and September 11, 2014.

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 Secretary of the Commission 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 31, 2014 and should be accompanied by proof of service on

¹ As used herein, a "Future Variable Fund" is any investment company (or investment portfolio or series thereof), other than the Existing Variable Fund, designed to be sold to VA Accounts or VLI Accounts and for which USBFS or any of its affiliates serves in the future as investment adviser, subadviser, manager, administrator, principal underwriter, or sponsor. The Existing Variable Fund and any Future Variable Fund is referred to herein as a "Variable Fund," and collectively, as the "Variable Funds."

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 may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

Applicants: Angela Pingel, Esq., U.S. Bancorp Fund Services, LLC, 615 East Michigan Street, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, or David P. Bartels, Branch Chief (Division of Investment Management, Chief Counsel's Office) at 202-551-6821.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search.htm>, or by calling (202) 551-8090.

Applicants' Representations

1. The Trust was organized as a Delaware statutory trust on January 27, 2011, and is registered under the Act as an open-end management investment company (Reg. File No. 811-22525). The Trust is a series investment company as defined by Rule 18f-2 under the Act and currently is comprised of 24 series (including the Existing Variable Fund) managed by 16 different advisers and two sub-advisers. The Trust has registered two classes of shares of the Existing Variable Fund under the Securities Act of 1933 (the "1933 Act") (Reg. File No. 333-172080) on Form N-1A. The Trust may establish Future Variable Funds and additional classes of shares for any of the Variable Funds. Shares of the Variable Funds will not be offered to the general public. The application seeks exemptive relief only for the Existing Variable Fund and any Future Variable Fund, as defined herein, but does not seek exemptive relief for the remaining 23 current series because they are not designed to be sold to VA Accounts and/or VLI Accounts.

2. Tortoise is the investment adviser to the Existing Variable Fund as well as the investment adviser to three other series of the Trust. Tortoise is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). Subject to the authority of the Board of Trustees of the Trust ("Board"), Tortoise will oversee