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ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,
Clearance Officer.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23007; 812-10932]

American Century Capital Investment Management, Inc., et al.; Notice of Application

January 22, 1998.

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

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

APPLICANTS: American Century Capital Portfolios, Inc. (the "Company"), on behalf of its series American Century Real Estate Fund (the "Fund"), American Century Investment Management, Inc. (the "Advisor"), RREEF Real Estate Securities Adviser, L.P. (the "Subadvisor"), and ROMEO America, L.L.C. (the "New Subadvisor").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act to exempt applicants from the provisions of section 15 (a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the

implementation, without prior shareholder approval, of an investment subadvisory agreement ("New Subadvisory Agreement") among the Fund, the Advisor and the New Subadvisor for a period of up to 120 days following the later of the acquisition of substantially all the assets of the Subadvisor by the New Subadvisor or the date on which the order is issued, but in no event later than May 27, 1998 (the "Interim Period"). The order would also permit the New Subadvisor to receive from the Advisor fees earned under the New Subadvisory Agreement following approval by the Fund's shareholders.

FILING DATES: The application was filed on December 29, 1997. Applicant has agreed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

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 February 13, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Skadden, Arps, Slate, Meagher & Flom (Illinois), 333 West Wacker Drive, Suite 2300, Chicago, Illinois 60606, Attn: Peter C. Krupp.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942-0527, or Nadya B. Roytblat, Assistant Director, 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 Fifth Street, N.W., Washington, DC 20549 (tel. (202) 942-8090).

Applicants' Representations

1. The Company is a Maryland corporation registered under the Act as an open-end management investment company. The Fund is a series of the Company. The Advisor, a Delaware

corporation and an investment adviser registered under the Investment Advisers Act of 1940 ("Advisers Act"), acts as the Fund's investment adviser. The Subadvisor, a California limited partnership and an investment adviser registered under the Advisers Act, acts as subadvisor to the Fund under the terms of a subadvisory agreement (the "Existing Subadvisory Agreement"). The New Subadvisor is a Delaware limited liability company and an indirect, wholly-owned subsidiary of ROMEO U.S. Group, Inc. ("ROMEO"). The applicants represent that the New Subadvisor will be a duly registered investment adviser under the Advisers Act because either (i) the New Subadvisor shall have filed a Form ADV with the SEC that has become effective on or before the Closing Date (as defined below), or (ii) in reliance on section 203(g) of the Advisers Act.

2. The New Subadvisor has agreed to acquire and purchase substantially all of the assets of the Subadvisor pursuant to an acquisition agreement dated December 14, 1997 (the "Acquisition"). In connection with the Acquisition, the Subadvisor will transfer all of the investment advisory agreements to which the Subadvisor is a party, including the Existing Subadvisory Agreement, to ROMEO. Applicants expect that the Acquisition will be consummated on January 27, 1998.

3. The consummation of the Acquisition will result in an assignment of the Existing Subadvisory Agreement within the meaning of section 2(a)(4) of the Act, terminating such agreement according to its terms and the Act. Applicants seek an exemption to permit: (i) The implementation, without prior shareholder approval, of the New Subadvisory Agreement; and (ii) the New Subadvisor to receive from the Advisor, subject to shareholder approval, any and all fees earned under the New Subadvisory Agreement during the Interim Period. The requested exemption would cover an Interim Period of not more than 120 days beginning on the later of the day the Acquisition is consummated (the "Closing Date"), or the issuance of the requested order and continuing through the date the New Subadvisory Agreement is approved by the shareholders of the Fund (and in any event no later than May 27, 1998).¹ The

¹ Applicants state that if the Closing Date precedes issuance of the requested order, the New Subadvisor will serve as subadvisor to the Fund after the Closing Date and until the issuance of the order in a manner consistent with its fiduciary duty. Applicants also state that the Advisor will be required to pay to the New Subadvisor, with respect to the period from the Closing Date until the

New Subadvisory Agreement will contain substantially the same terms and conditions as the Existing Subadvisory Agreement, except for the dates of execution and termination and the inclusion of escrow arrangements.

4. Applicants state that prior to the Closing Date, the Board of Directors of the Company (the "Board") will meet, in accordance with Section 15(c) of the Act to consider the New Subadvisory Agreement and to evaluate whether the terms of the New Subadvisory Agreement are in the best interests of the Fund and its shareholders. The Board intends to hold such a meeting on January 23, 1998. To the extent that the Board cannot meet prior to the Closing Date, applicants acknowledge that they may not rely on the exemptive relief requested in the application.

5. Applicants propose to enter into escrow arrangements with an unaffiliated financial institution as escrow agent. The arrangements, in substance, would provide that: (i) The portion of the investment subadvisory fees earned by the New Subadvisory during the Interim Period under the New Subadvisory Agreement would be paid into an interest-bearing escrow account maintained by the escrow agent; and (ii) the amounts in the escrow account (including interest earned on such amounts) would be paid to the New Subadvisory only upon approval by the Fund's shareholders of the New Subadvisory Agreement or, in the absence of such approval, to the Fund. Before any such release is made, the Board will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act prohibits an investment adviser from providing investment advisory services to a registered investment company except under a written contract that has been approved by a majority of the voting securities of the investment company. Section 15(a) of the Act further requires that the written contract provide for automatic termination in event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Applicants represent that the Acquisition will result in an "assignment," within the meaning of section 2(a)(4) of the Act, of the Existing

Subadvisory Agreement, terminating the Agreement according to its terms.

3. Rule 15a-4 provides, in pertinent part, that if an investment adviser's investment advisory contract with a registered investment company is terminated by assignment, the adviser may continue to act as such for 120 days under a written contract that has not been approved by the investment company's shareholders, if the new contract is approved by the board of directors of the investment company (including a majority of the noninterested directors), the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most recently approved by shareholders of the investment company, and neither the investment adviser nor any controlling person of the investment adviser "directly or indirectly receive money or other benefit" in connection with the assignment. Applicants cannot rely on rule 15a-4 because of the benefits to the members, partners and shareholders of the Subadvisory arising from the Acquisition.

4. Section 6(c) of the Act permits the SEC to conditionally or unconditionally exempt any person, security, or transaction from any provision of the Act or any rule or regulation thereunder, 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 believe that the requested relief meets this standard.

5. Applicants note that the terms and timing of the Acquisition were determined by the New Subadvisory and the Subadvisory in response to a number of factors beyond the scope of the Act and substantially unrelated to the Fund. The Acquisition contemplates the sale of the assets of four entities, including the Subadvisory, and the assignment of more than 200 investment advisory and property management contracts. The assignment of the Existing Subadvisory Agreement constitutes a relatively small part of the Acquisition.

6. During the Interim Period, the New Subadvisory will render investment subadvisory services to the Fund under the New Subadvisory Agreement, which will be substantially the same as the Existing Subadvisory Agreement. The applicants represent that during the Interim Period the Fund will receive the same scope and quality of investment subadvisory services provided by essentially the same personnel under the New Subadvisory Agreement as it

receives under the Existing Subadvisory Agreement, in the same manner and at the same fee levels. Although the Subadvisory does not anticipate any change in the personnel providing services to the Fund, if such personnel change materially, the New Subadvisory will apprise and consult with the Board to make sure that the Board, including a majority of the noninterested Board members, is satisfied that the services provided during the Interim Period will not be diminished in scope and quality.

7. Applicants believe that the requested relief is consistent with the protection of investors because it will permit continuity of investment subadvisory services to the Fund. Applicants submit that to deprive the New Subadvisory of investment advisory fees earned during the Interim Period would be an unduly harsh and unreasonable penalty.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by this application that:

1. The New Subadvisory Agreement will contain substantially the same terms and conditions as the Existing Subadvisory Agreement, except for the dates of execution and termination and the inclusion of escrow arrangements.

2. That portion of the investment subadvisory fee earned by the New Subadvisory during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such amounts) will be paid (a) to the New Subadvisory in accordance with the New Subadvisory Agreement, only upon approval of the Fund's shareholders, or (b) in the absence of such approval prior to the expiration of the Interim Period, to the Fund.

3. The Fund will promptly schedule a meeting of shareholders to vote on the approval of the New Subadvisory Agreement to be held within 120 days following the commencement of the Interim Period (but in no event later than May 27, 1998).

4. The Subadvisory or the New Subadvisory will pay the costs of preparing and filing the application. The Subadvisory or the New Subadvisory will pay the costs relating to the solicitation and approval of Fund shareholders of the New Subadvisory Agreement necessitated by the Acquisition.

5. The New Subadvisory will take all appropriate actions to ensure that the scope and quality of subadvisory and other services provided to the Fund by the New Subadvisory during the Interim Period will be at least equivalent, in the

issuance of the order, no more than the actual out-of-pocket cost to the New Subadvisory for providing investment subadvisory services to the Fund.

judgment of the Board, including a majority of the noninterested Board members, to the scope and quality of services previously provided. In the event of any material change in personnel providing material services pursuant to the New Subadvisory Agreement, the New Subadvisor will apprise and consult with the Board to make sure that the Board, including a majority of the noninterested members, is satisfied that the services provided will not be diminished in scope or quality.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-2135 Filed 1-28-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23006; File No. 812-10750]

Great-West Life & Annuity Insurance Company, et al; Notice of Application

January 22, 1998.

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

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the "1940 Act") approving certain substitutions of securities, and pursuant to Section 17(b) of the 1940 Act exempting related transactions from Section 17(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered unit investment trusts to substitute shares of certain registered open-end investment companies for shares of certain registered investment companies currently held by those unit investment trusts, and to permit certain in-kind redemptions of portfolio securities in connection with the substitutions.

APPLICANTS: Great-West Life & Annuity Insurance Company ("GWL&A"), Maxim Series Account (the "Maxim Account"), Pinnacle Series Account (the "Pinnacle Account," together with GWL&A and the Maxim Account, the "Separate Accounts"), Maxim Series Fund, Inc. ("Maxim Series Fund") and BenefitsCorp Equities, Inc. ("BCE").

FILING DATE: The application was filed on August 8, 1997, and amended and restated on December 9, 1997.

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 February 17, 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 may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Jordan Burt Berenson & Johnson, LLP, 1025 Thomas Jefferson Street, N.W., Suite 400 East, Washington, D.C. 20007-0805, Attention: Josephine Cicchetti, Esq.

FOR FURTHER INFORMATION CONTACT: Ethan D. Corey, Senior Counsel, at (202) 942-0675, or Kevin M. Kirchoff, Branch Chief, at (202) 942-0672, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 5th Street, N.W., Washington, D.C. 20549 (tel. (202) 942-8090).

Applicants' Representations

1. GWL&A, a Colorado stock life insurance company, does business in the District of Columbia, Puerto Rico, and in all states of the United States, except New York.

2. GWL&A is wholly-owned by The Great-West Life Assurance Company, which is a subsidiary of Great-West Lifeco Inc., an insurance holding company. Great-West Lifeco Inc. is a subsidiary of Power Financial Corporation of Canada, which is controlled by Power Corporation of Canada.

3. The Maxim Account, a separate account established by GWL&A under Colorado law, is registered with the Commission as a unit investment trust. The Maxim Account is a distinct investment account of GWL&A which acts as a funding vehicle for certain individual flexible premium variable deferred annuity contracts (the "Maxim Contracts").

4. Currently there are three different Maxim Contracts issued under the Maxim Account. Two of the Maxim Contracts ("MSA-1" and "MSA-2") are

no longer sold, have fewer than 5,000 participants and no longer file post effective amendments in reliance upon a no-action letter. MSA-1 has five investment divisions, each of which invests exclusively in one of the corresponding portfolios of Maxim Series Fund, an open-end management investment company. MSA-2 has seven investment divisions, five of which invest solely in corresponding portfolios of Maxim Series Fund and two of which invest solely in corresponding portfolios of American Century Variable Portfolios, Inc. ("American Century"), another open-end management investment company. The third Maxim Contract ("MVP") has fifteen investment divisions, thirteen of which invest solely in corresponding portfolios of Maxim Series Fund and two of which invest solely in corresponding portfolios of American Century.

5. The Maxim Account is used in connection with Maxim Contracts that may be issued under retirement plans which qualify for federal tax benefits under Sections 401 and 408 of the Internal Revenue Code (the "Code") as individual retirement accounts and under other retirement plans which do not qualify under the Code.

6. The Pinnacle Account, a separate account established by GWL&A under Colorado law, is registered with the Commission as a unit investment trust. The Pinnacle Account is a distinct investment account of GWL&A which acts as a funding vehicle for certain single premium variable life insurance policies (the "Policies," together with the Maxim Contracts, the "Contracts").

7. The Policies have five investment divisions, each of which invests exclusively in one of the corresponding portfolios of the Maxim Series Fund.

8. The Pinnacle Account no longer files post-effective amendments to its registration statement in reliance upon a no-action letter granted to GWL&A and the Pinnacle Account.

9. BCE is the principle underwriter and distributor of MVP. The Policies, MSA-1, and MSA-2 are not currently sold and there is no need for an underwriter. BCE is registered with the Commission under the Securities Exchange Act of 1934 as a broker-dealer and is a member of the National Association of Securities Dealers, Inc.

10. Of the Contracts and Policies, only MVP is still sold. MVP may be issued under retirement plans which qualify for federal tax benefits under Sections 401 and 408 of the Code as individual retirement accounts and under other retirement plans which do not qualify under the Code.