

take effective advantage of business opportunities that might arise. Investors would not receive any benefit or additional protection by requiring the company to seek exemptive relief repeatedly with respect to the issues addressed in this application.

4. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act require, among other things, that all payments received under a periodic payment plan certificate sold by a registered unit investment trust, any depositor thereof or underwriter thereof be held by a qualified bank as trustee or custodian, under arrangements which prohibit any payment to the depositor or principal underwriter except for the payment of a fee, not exceeding such reasonable amount as the Commission may prescribe, for bookkeeping and other administrative services.

5. The Applicants submit that the Company is entitled to reasonable compensation for its assumption of mortality and expense risks under the Contracts, and represent that the mortality and expense risks charge of 1.00 percent per annum proposed for the Contracts is within the range of industry practice for comparable variable annuity products. The Applicants represent that this representation is based upon an analysis made by the Company of publicly available information about selected similar industry products, taking into consideration such factors as annuity purchase rate guarantees, current levels of charges, any contractual right to increase charges above current levels, the existence of other charges, and the contractual right to make free withdrawals. The Company will maintain at its home office, and make available to the Commission, memoranda setting forth the products analyzed in the course of, and the methodology and results of, the comparative survey conducted.

6. Applicants acknowledge that the Company's revenues from the CDSC and distribution charge (if any) assessed under the Contracts could be insufficient to cover the costs of distributing the Contracts. If so, the excess distribution costs would be paid from the Company's general assets, including the profits (if any), from the mortality and expense risks charge assessed. In such circumstances, a portion of the mortality and expense risks charge might be viewed as covering a portion of the costs relating to the distribution of the Contracts.

7. The Applicants submit that, notwithstanding the foregoing, the Company has concluded that there is a reasonable likelihood that the proposed

distribution financing arrangements made with respect to the Contracts will benefit VAD and the contract owners. The basis for that conclusion is set forth in a memorandum which will be maintained by the Company at its service office and will be available to the Commission.

8. The Company represents that VAD will invest only in underlying mutual funds which have undertaken to have a board of directors, a majority of the members of which are not "interested persons" of that fund (within the meaning of Section 2(a)(19) of the 1940 Act), formulate and approve any plan to finance distribution expenses in accordance with Rule 12b-1 under the 1940 Act.

9. Applicants submit that, because the aggregate distribution charges (if any) and sales charges will never exceed 9 percent, Applicants will deduct no more to pay for distribution of the Contracts than is permitted by the 1940 Act and Rule 6c-8 thereunder. Because those charges will be deducted from Contract value over a period of many years, rather than from contributions to the Plans, Plan participants will have more funds available for investment than if a front-end sales charge of 9 percent were deducted.

#### Conclusion

The Applicants submit that, for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to permit the deduction of a mortality and expense risks charge and/or a distribution charge under the Contracts and the future contracts funded through existing and future subaccounts of VAD meet the statutory standards of Section 6(c) of the 1940 Act. Accordingly, the 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, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-295 Filed 1-5-95; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-20811; 812-9346]

#### A.T. Ohio Municipal Money Fund and The Victory Funds; Notice of Application

December 29, 1994.

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

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** A.T. Ohio Municipal Money Fund ("A.T. Ohio") and the Victory Funds (the "Fund").

**RELEVANT ACT SECTIONS:** Exemption requested under section 6(c) from rule 24f-2 under the Act.

**SUMMARY OF APPLICATION:** A.T. Ohio and the Fund request an order to permit them to pay a share registration fee due under rule 24f-2 for their fiscal years ending August 30, 1994 and August 31, 1994, respectively, based on net sales, *i.e.*, new sales minus redemptions, rather than on gross sales, *i.e.*, with no credit for redemptions.

**FILING DATE:** The application was filed on December 7, 1994.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested parties may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 23, 1995, and should be accompanied by proof of service on applicant, 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 5th Street, NW., Washington, DC 20549. Applicants, 125 West 55th Street, New York, New York 10019.

**FOR FURTHER INFORMATION CONTACT:** Fran Pollack-Matz, Senior Attorney, at (202) 942-0570, or Robert A. Robertson, 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.

**APPLICANTS' REPRESENTATIONS:** 1. A.T. Ohio and the Fund, registered open-end investment companies, each filed declarations pursuant to rule 24f-2