termination, at a meeting in which directors may participate by any means of communication that allows all directors participating to hear each other simultaneously during the meeting; (b) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the terminated contract (which must have been approved by the company's shareholders); and (c) neither the adviser nor any controlling person of the adviser ''directly or indirectly receives money or other benefit'' in connection with the assignment. Applicants relied on rule 15a–4(b)(1) with respect to adoption of the Interim Advisory Agreement and the Subadvisory Agreement.

3. Rule 15a–4(b)(2) under the Act provides, in pertinent part, that in the case of an assignment of an investment advisory contract with an investment company by an investment adviser or a controlling person of the investment adviser in connection with which the investment adviser or a controlling person directly or indirectly receives money or other benefit, an adviser may serve for up to 150 days under a written contract that has not been approved by the investment company's shareholders, provided that:

(a) The compensation to be paid under the new contract does not exceed the compensation that would have been paid under the terminated contract (which must have been approved by the company's shareholders) (paragraph (b)(2)(i));

(b) The board of directors of the investment company, including a majority of the directors who are not interested persons of the company, has voted in person to approve the new contract before the previous contract is terminated (paragraph (b)(2)(ii));

(c) The board of directors of the company, including a majority of the directors who are not interested persons of the company, determines that the scope and quality of services to be provided to the company under the new contract will be at least equivalent to the scope and quality of services provided under the previous contract (paragraph (b)(2)(iii));

(d) The new contract provides that the company's board of directors or a majority of the company's outstanding voting securities may terminate the contract at any time, without the payment of any penalty, on not more than 10 calendar days' written notice to the investment adviser (paragraph (b)(2)(iv));

(e) The new contract contains the same terms and conditions as the terminated contract, with the exception of its effective and termination dates, provisions governed by paragraphs (b)(2)(i), (b)(2)(iv), and (b)(2)(vi), and any other differences in terms and conditions that the board of directors, including a majority of the directors who are not interested persons of the company, finds to be immaterial (paragraph (b)(2)(v)); and

(f) The new contract contains the following provisions:

(i) The fee earned under the contract will be held in an interest-bearing escrow account with the company's custodian or a bank; and

(ii) If a majority of the company's outstanding voting securities do not approve the new contract, the investment adviser will be paid, out of the escrow account, the lesser of: (A) any costs incurred in performing the interim contract (plus interest earned on that amount while in escrow); or (B) the total amount in the escrow account (plus interest earned) (paragraph (b)(2)(vi).

4. Applicants cannot rely on rule 15a–4 in connection with the New Advisory Agreement because an ''interim contract'' within the meaning of the rule must have a duration of no more than 150 days following the date on which the previous contract that was approved by shareholders was terminated. Under the proposed condition, however, applicants will comply with all of the provisions of paragraphs (b)(2)(i) and (b)(2)(iii)–(vi) of rule 15a–4 described above.

5. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

6. Applicants state that the requested relief satisfies this standard. Applicants state that the need for the relief developed as a result of the sudden death of Mr. Giordano and from the Adviser and the Board giving careful consideration to what alternative arrangements might be most beneficial to the Fund and its shareholders. Applicants submit that under the proposed condition, the interests of the shareholders will be safeguarded during the Interim Period. In addition, allowing the implementation of the new Advisory Agreement will ensure that there is no disruption to the investment program and the delivery of services to the Fund.

Applicants' Condition

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

1. Applicants will comply with rule 15a–4(b)(2)(i), (iii), (iv), (v) and (vi) during the period covered by the requested order, with ''previous contract'' construed to mean the Former Advisory Agreement and ''interim contract'' construed to mean the New Advisory Agreement.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18942 Filed 7–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25076; 812–12004]

Markman MultiFund Trust, et al; Notice of Application

July 24, 2001.

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

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: The order would permit certain registered open-end management investment companies to acquire shares of other registered open-end management investment companies outside the same group of investment companies.

Applicants: Markman MultiFund Trust (the ''Trust'') and Markman Capital Management, Inc. (the ''Adviser'').

Filing Dates: The application was filed on February 25, 2000 and amended on July 20, 2001.

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 August 16, 2001, 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, 6600 France Avenue South, Suite 565, Minneapolis, Minnesota 55435.

FOR FURTHER INFORMATION CONTACT: Sara Crovitz, Senior Counsel, 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, (202) 942–8090.

Applicant's Representations

1. The Trust is an open-end management investment company registered under the Act that is comprised of separate series, each of which pursues a distinct set of investment objectives and policies. The Adviser is registered as an investment adviser under the Investment advisers Act of 1940 and serves as investment adviser to the Trust.

2. Applicants request relief to permit series of the trust (the ''Funds of Funds'') to acquire more significant amounts of shares of registered open-end management investment companies that are not part of the same group of investment companies as the Funds of Funds (the ''Underlying Funds'') and the Underlying Funds to sell such shares to the Funds of Funds.[1] The requested order would apply to purchases made by the Funds of Funds only where the Funds of Funds could not rely on the provisions of section 12(d)(1)(F) of the Act.

3. Applicants state that each Fund of Funds will enable investors to create either a comprehensive asset allocation program or achieve diversification in a specific segment of the market with just one investment. Applicants assert that a Fund of Funds will provide a simple, convenient, low cost investment program for investors who are able to identify their long-term investment goals but who may not be comfortable deciding how to invest their assets to achieve those goals.

[1] All Funds of Funds that currently intend to rely on the requested order are named as applicants. Any other investment company that relies on the order in the future will comply with the terms and conditions of the application.

Applicant's Legal Analysis:

A. Section 12(d)(1).

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company from selling its shares 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 generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) to permit the Fund of Funds to acquire shares of the Underlying Funds and the Underlying Funds to sell their shares to the Funds of Funds beyond the limits set forth in sections 12(d)(1)(A) and (B).

3. Applicants state that the proposed arrangement will adequately address the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants state that the proposed arrangement will not result in undue influence by a Fund of Funds or its affiliates over Underlying Funds. To limit the influence that a Funds of Funds may have over an Underlying Funds, applicants propose a condition prohibiting the Funds of Funds, the Adviser and certain affiliates (individually or in the aggregate) from controlling an Underlying Fund within the meaning of section 2(a)(9) of the Act. To limit further the potential for undue influence over the Underlying Funds, applicants propose conditions 2 through 7, stated below, to preclude a Fund of Funds and its affiliated entities from taking advantage of an Underlying Fund with respect to transactions between the entities and to ensure the transactions will be on an arm's length basis.

5. As an additional assurance that an Underlying Fund understands the implications of an investment by a Fund of Funds under the requested order, the Fund of Funds and Underlying Fund will execute an agreement prior to the investment stating that the board of directors or trustees of the Underlying Fund and the adviser to the Underlying Fund understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. Applicants note that an Underlying Fund may choose to reject an investment from the Fund of Funds.

6. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. Applicants state that the board of trustees of the Funds of Funds, including a majority of the trustees who are not ''interested persons'' as such term is defined in section 2(a)(19) of the Act (''Disinterested Trustees''), will find that the investment advisory fees charged under any investment advisory agreements are based on services provided that will be in addition to, rather than duplicative of, services provided under the investment advisory agreement of any Underlying Fund in which a Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to the Adviser by a Fund of Funds in an amount at least equal to any compensation received by the Adviser or an affiliated person of the Adviser from the Underlying Fund in connection with the investment by the Fund of Funds in the Underlying Fund. Applicants also state that the aggregate sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in Rule 2830 of the Conduct Rules of the National Association of Securities Dealers (''NASD Conduct Rules'').

7. Applicants state that the proposed arrangement will not create an overly complex fund structure. Applicants note that an Underlying Fund will be prohibited from acquiring securities of any investment company in excess of the limits contained in section 12(d)(1)(A), except to the extent permitted by an exemptive order allowing an Underlying Fund to purchase shares of an affiliated money market fund for short-term cash management purposes. In addition, applicants represent that a Fund of Funds' prospectus does and will contain concise, ''plain English'' disclosure designed to inform investors of the unique characteristics of the Fund of Funds structure, including, but not limited to, its expense structure and the

additional expenses of investing in the Underlying Funds.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person and any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that a Fund of Funds and an Underlying Fund might become affiliated persons of the Fund of Funds acquires more than 5% of the Underlying Fund's outstanding voting securities. In light of this possible affiliation, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from the Fund of Funds.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provisions of the Air if 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.

4. Applicants submit that the proposed arrangement satisfies the standards for relief under section 17(b) and 6(c) of the Act. Applicants state that the terms of the arrangement are fair and reasonable and do not involve overreaching. Applicants note that the consideration paid for the sale and redemption of shares of the Underlying Funds will be based on the net assets values of the Underlying Funds. Applicants state that the proposed arrangement will be consistent with the policies of each Fund of Funds as set forth in each Fund of Funds' registration statement, the policies of each Underlying Fund, and with the general purposes of the Act.

Applicants' Conditions

1. (a) The Adviser, (b) any person controlling, controlled by, or under common control with the Adviser, and (c) any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the Act advised by the Adviser or any person controlling, controlled by, or under common control with the Adviser (together, the ''Group'') will not control (individually or in the aggregate) an Underlying Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Underlying Fund, the Group, in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of an Underlying Fund, the Group will vote its shares of the Underlying Fund in the same proportion as the vote of all other holders of the Underlying Fund's shares.

2. A Funds of Funds and the Adviser, the Funds of Funds' promoter, and principal underwriter, and any person controlling, controlled by, or under common control with any of those entities (each a ''Funds of Funds Affiliate'') will not cause any existing or potential investment by the Fund of Funds in shares of an Underlying Fund to influence the terms of any services or transactions between the Funds of Funds or a Funds of Funds Affiliate and the Underlying Fund or its investment adviser, promoter, principal underwriter, and any person controlling, controlled by, or under common control with any of those entities (each an ''Underlying Fund Affiliate''),

3. The board of trustees of the Funds of Funds, including a majority of the Disinterested Trustees, will adopt procedures reasonably designed to assure that the Adviser is conducting the investment program of the Funds of Funds without taking into account any consideration received by the Funds of Funds or a Funds of Funds Affiliate from an Underlying Fund or an Underlying Fund Affiliate in connection with any services or transactions.

4. The board of directors or trustees of each Underlying Fund, including a majority of the disinterested directors or trustees, will determine that any consideration paid by the Underlying Fund to the Funds of Funds or a Funds of Funds Affiliate in connection with any services or transactions: (A) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Underlying Fund; (b) is within the range of consideration that the Underlying Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned.

5. No Funds of Funds or Funds of Funds Affiliate will cause an Underlying Fund to purchase a security from any underwriting or selling syndicate in which a principal underwriter is an officer, director, member of an advisory board, investment adviser, or employee of the Funds of Funds, or a person of which any such officer, director, member of an advisory board, investment adviser or employee is an affiliated person (each an ''Underwriting Affiliate''). An offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate is considered an ''Affiliated Underwriting.''

6. The board of directors or trustees of an Underlying Fund, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Underlying Fund in an Affiliated Underwriting, including any purchases made directly from an Underwriting Affiliate. The board of directors or trustees of the Underlying Fund will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by a Funds of Funds in shares of the Underlying Fund. The board of directors or trustees of the Underlying Fund should consider among other things, (a) whether the purchases were consistent with the investment objectives and policies of the Underlying Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Underlying Affiliate have changed significantly from prior years. The board of directors or trustees of the Underlying Fund shall take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities from Affiliated Underwritings are in the best interests of shareholders.

7. The Underlying Fund shall maintain and preserve permanently in an easily accessible place a written copy

of the procedures described in the preceding condition, and any modifications, and shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase from an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information of materials upon which the board's determinations were made.

8. Prior to an investment in shares of an Underlying Fund in excess of the limit in section 12(d)(1)(F), the Fund of Funds and the Underlying Fund will execute an agreement stating, without limitation, that the board of directors or trustees of the Underlying Fund and the adviser to the Underlying Fund understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Underlying Fund in excess of the limit in section 12(d)(1)(F), a Fund of Funds will notify the Underlying Fund of the investment. At such time, the Fund of Funds also will transmit to the Underlying Fund a list of the names of each Fund or Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Underlying Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Underlying Fund and the Fund of Funds will maintain and preserve a copy of the order, the agreement, and the list with any undated information for a period of not less than six years from the end of the fiscal year in which any investment occurred, the first two in an easily accessible place.

9. Prior to approving any investment advisory agreement under section 15 of the Act, the board of trustees of the Funds of Funds, including an majority of the Disinterested Trustees, will find that the investment advisory fees charged under such agreement are based on services provided that will be in addition to, rather than duplicative of, the services provided under the investment advisory agreement of any Underlying Fund in which the Fund of Funds may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Fund of Funds.

10. Any sales charges and/or service fees (as defined in rule 2830 of the NASD Conduct Rules) charged and respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in Rule 2830 of the NASD Conduct Rules.

11. No Underlying Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by an exceptive order that allows the Underlying Fund to purchase shares of an affiliated money market fund short-term cash management purposes.

12. The Adviser will waive fees otherwise payable to the Adviser by Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to a plan adopted by an Underlying Fund under rule 12b–1 under the Act) received by an Adviser or an affiliated person of the Adviser from an Underlying Fund in connection with the investment by the Fund of Funds in the Underlying Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18943 Filed 7–27–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before September 28, 2001.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Ana Maria Vera, Entrepreneurial Development Specialist, Business Development Division, Small Business Administration, PR & U.S. VI District Office, 252 Ponce de Leon Avenue, Citibank Towers, Suite 201, Hato Rey, PR 00918.

FOR FURTHER INFORMATION CONTACT: Ana Maria Vera, Entrepreneurial Development Specialist, (787) 766–5572 or Curtis B. Rich, Management Analyst, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: Customer Service Evaluation.

Form No: DO–0001.

Description of Respondents: Entrepreneur's that require services through the SBA Puerto Rico & U.S. Virgin District Office.

Annual Responses: 2,700.

Annual Burden: 450.

Curtis B. Rich,

Acting Chief, Administrative Information Branch.

[FR Doc. 01–18844 Filed 7–27–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3729]

Culturally Significant Objects Imported for Exhibition Determinations: ''Aelbert Cuyp''

AGENCY: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Aelbert Cuyp,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about October 7, 2001 to on or about January 13, 2002 and at possible additional venues yet to be determined is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6981). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.