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. Applicant requests an order under section 6(c) exempting it from all provisions of the Act.

3. Rule 3a–6 under the Act exempts foreign banks from the definition of investment company for all purposes of the Act. A ''foreign bank'' is defined to include a banking institution that is regulated as such by that country's government. Although applicant conducts several of the activities associated with traditional commercial banks, Colombian law distinguishes between banks and finance corporations with respect to checking accounts and equity investments and underwriting of securities. Therefore applicant may not be eligible for the exemption provided by rule 3a–6.

4. Colombian finance corporations are credit establishments subject to extensive regulation by the Banking Superintendency, essentially the same regulation that applies to Colombian banks. Applicant derives the majority of its business from extending commercial credit and similar banking activities. In all material respects, Colombian finance corporations are distinguished from Colombian banks in Colombia's regulatory regime only because the latter may not make equity investments and the former may not offer checking accounts. Otherwise, the virtually identical regulation of both types of credit establishments recognizes that their businesses are very similar in nature, that they compete in the same markets for the same customers, and that their security holders and customers require virtually identical regulatory protections. In the case of applicant, the same regulatory regime that applies to Colombian banks applies to applicant, and such regulations afford the same substantial protection to U.S. investors regardless of whether the issuer of securities is classified as a ''bank'' or as a ''finance corporation'' under the Colombian regulatory regime.

5. Applicant also believes that the rationale of Congress and the SEC in promulgating rules under the Act in exempting foreign financial institutions applies to applicant. Applicant represents that its activities do not lend themselves to the abuses against which the Act is directed, and it believes that it satisfies the standards of relief under section 6(c).

Applicant's Condition

Applicant agrees that the order granting the requested relief shall be subject to the following condition:

In connection with any offering of securities in the United States, applicant will appoint an agent in the United States to accept any process which may be served on it in any action based on such securities and instituted in the Supreme Court of the State of New York or the United States District Court for the Southern District of New York by any holder of any such securities. Applicant will expressly consent to the jurisdiction of the Supreme Court of the State of New York or the United States District Court for the Southern District of New York in respect of any such action. Applicant also will waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. Such appointment of an agent to accept service and such consent to jurisdiction shall be irrevocable until all amounts due and to become due in respect of such securities have been paid. No such submission to jurisdiction or appointment of agent for service of process will affect the right of a holder of any such security to bring suit in any court which shall have jurisdiction over applicant by virtue of the offer and sale of such securities or otherwise.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11405 Filed 5–7–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21935; 812–9950]

Indigo Group, Ltd., et al.; Notice of Application

May 2, 1996.

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

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

APPLICANTS: Indigo Group, Ltd. (''Indigo Group''), James P. Gorter (''Gorter''), and Triangle V III, Limited Partnership (''Triangle'').

RELEVANT ACT SECTIONS: Order requested under section 17(b) of the Act for an exemption from section 17(a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit an affiliated person of an affiliated person of Baker, Fentress & Company (''Baker Fentress''), a closed-end investment company, to purchase a strip shopping center from a company controlled by Baker Fentress.

FILING DATES: The application was filed on January 5, 1996 and amended on May 1, 1996.

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 May 28, 1996, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: c/o Bruce W. Teeters, President, Indigo Group, Inc., 149 South Ridgewood Avenue, Dayton Beach, FL 32114; James P. Gorter, Chairman of the Board, Baker, Fentress & Company, 200 West Madison Street, Suite 3510, Chicago, IL 60606; c/o Andrew B. Widmark, Triangle V III, Limited Partnership, 331 West Main Street, Durham, NC 27701.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, 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. Baker Fentress is a closed-end management investment company under the Act. Consolidated-Tomoka Land Co. (''Consolidated Tomoka'') is a majority-owned subsidiary of Baker Fentress. Consolidated Tomoka is engaged primarily in the business of commercial and residential real estate development and sales through subsidiaries, and citrus production. Gorter is chairman of the board of directors of Baker Fentress and a director of Consolidated Tomoka.

2. Palms Del Mar, Inc. (''Palms Del Mar'') is a wholly-owned subsidiary of Consolidated Tomoka. Palms Del Mar and Consolidated Tomoka are the limited partners of Indigo Group, a partnership primarily engaged in the business of real estate development.

Indigo Group, Inc., another wholly-owned subsidiary of Consolidated Tomoka, is the sole general partner of Indigo Group. As a limited partner, the sole stockholder of the only other limited partner, and the sole stockholder of the sole general partner, Consolidated Tomoka owns 100% of the equity interests in Indigo Group.

3. Triangle is a limited partnership established to invest in real estate and acquire various properties from owners, banks, insurance companies, developers, or builders. Triangle's primary investments are in developed shopping centers. Acquisitions and overall control of operations are handled by Triangle's general partner, Mark Realty Corp. (''Mark Realty'').

4. Triangle has issued class A and class B limited partnership interests. The class B limited partnership interests are owned by Mark Realty and members of Mark Realty's management. The class A limited partnership interests are owned by members of Mark Realty's management, investors associated with Mark Realty, and Gorter. Gorter owns class A limited partnership interests having a value of approximately 6% of Triangle's aggregate capital.

5. On September 21, 1995, Indigo Group and Triangle, through their respective general partners, entered into an agreement of purchase and sale (the ''Agreement'')[1] to permit Triangle to purchase Mariner Village Center, a strip shopping center located in Spring Hill, Florida (the ''Property''), from Indigo Group (the ''Sale''). The Sale was approved by the officers of both Indigo Group, Inc. and Consolidated Tomoka. Because the Sale is part of the implementation of a business strategy established by Consolidated Tomoka's board of directors, no specific review or authorization of the Sale by Consolidated Tomoka's board of directors was required.

6. Triangle's partnership agreement states that holders of class A limited partnership interests may, by a vote of two thirds of the outstanding class A limited partnership interests, ''expel'' the general partner. Triangle's partnership agreement also gives the class A limited partners the right to approve all proposed property acquisitions by Triangle. Triangle is required to provide written notice of each proposed acquisition to all class A limited partners for their approval. If any class A limited partner objects to the proposed acquisition within 15 days, Triangle will not complete the acquisition, effectively giving each class A limited partner a ''veto right'' over every acquisition. Triangle sent its required notice of the proposed Sale to its class A limited partners, including Gorter, on October 11, 1995. No class A limited partner objected to the Sale.

7. Under the terms of the Amended Agreement, Triangle will purchase the Property from Indigo Group and assume all the rights and privileges belonging to the land. Triangle also will assume all rights, title, and interests of Indigo Group in all the tenant leases relating to the Property. The purchase price Triangle will pay to Indigo Group is $3.7 million but will be increased to $3.8 million if Indigo Group is successful in securing a major tenant for the Property before the closing of the Sale. The purchase price will consist of a $100,000 earnest money deposit and $1.2 million in additional cash or $1.3 million in additional cash if the purchase price is increased as described above. In addition, Triangle is expected to assume Indigo Group's liability under its existing mortgage loan on the Property of $2.4 million. Alternatively, Triangle may seek financing elsewhere and pay Indigo Group an additional $2.4 million in cash.[2]

Applicants' Legal Analysis

1. Applicants request an order under section 17(b) of the Act for an exemption from section 17(a)(2) of the Act. The order would permit Triangle, an affiliated person of an affiliated person of Baker Fentress, to purchase the Property from Indigo Group, a company controlled by Baker Fentress.

2. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, knowingly to purchase from such registered company, or from any company controlled by such registered company, any security or other property. Section 2(a)(3)(D) defines ''affiliated person'' as, among other things, any officer, director, partner, copartner, or employee of such other person. Thus, Gorter is an affiliated person of Baker Fentress because he is chairman of Baker Fentress's Board of directors.

3. Section 2(a)(3)(B) defines ''affiliated person'' as, among other things, any person 5% or more of whose outstanding voting securities are owned with power to vote by such other person. Section 2(a)(42) defines ''voting security'' as any security presently entitling the owner or holder thereof to vote for the election of directors of a company. Since Triangle's class A limited partners have the right to vote to ''expel'' the general partner and a ''veto right'' over every acquisition, the class A limited partnership interests may represent an interest that is tantamount to a voting security. Applicants, therefore, believe that Triangle may be considered an affiliated person of Gorter because he owns 6% of its class A limited partnership interests. Thus, Triangle may be an affiliated person of an affiliated person of Baker Fentress.

4. Section 2(a)(9) defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. Section 2(a)(9) also establishes a rebuttable presumption that a person who owns more than 25% of the voting securities of a company shall be presumed to control such company. Applicants state that as a result of the ownership by Baker Fentress of a majority of Consolidated Tomoka's outstanding common stock, Consolidated Tomoka and its directly and indirectly wholly-owned subsidiaries, including Indigo Group, are controlled by Baker Fentress. Accordingly, Triangle's purchase of the Property from Indigo Group may be prohibited by section 17(a)(2).

5. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act.

6. Applicants believe that the Sale will benefit all of the applicants and their respective investors. As Indigo Group's sole equity owner, Consolidated Tomoka will benefit from the Sale and therefore Baker Fentress and its stockholders will indirectly benefit from the Sale. Indigo Group is in the business of real estate development which necessarily means the willingness to dispose of developed real estate at times and prices considered to be advantageous. Triangle's primary business is to invest in real estate, east of the Mississippi River, primarily in developed strip shopping centers. The Property is considered by Triangle to be a desirable example of property of the

[1] The Agreement was amended on December 14, 1995 (the ''Amended Agreement'').

[2] Prior to entering into the Agreement, Indigo received a firm offer of $4,850,000 from Triangle to purchase the Property and another smaller shopping center, Mariner Town Square, in a single transaction. Indigo also received a preliminary offer of $4,500,000 for the two properties from a real estate firm not related to any party to the application. Neither of these two offers resulted in a sale of the two properties. Indigo sold Mariner Town Square as a separate parcel in May 1995 for $1,225,000.

type in which Triangle was formed to invest.

7. Applicants state that Gorter did not take part in any negotiations surrounding the terms of the Sale. Gorter's involvement in the Sale is due solely to his positions with Baker Fentress and Consolidated Tomoka and his limited partnership interests in Triangle. Gorter was unaware of the negotiations and Sale until he received notice from Triangle, on October 11, 1995, in his capacity as a class A limited partner. Applicants submit that Gorter did not exercise his right as a class A limited partner of Triangle to object to the Sale because Gorter and Indigo Group believe that to have done so might have been a breach of his fiduciary duties to Consolidated Tomoka and Baker Fentress by causing them to lose the benefit of a transaction believed by them to be in their best interest. As a result, Indigo Group and Gorter believe that avoidance of the need for the application by Gorter's objection to the Sale was not a viable option.

8. Applicants state that although the policies of Baker Fentress are not directly implicated by the Sale because Baker Fentress is not a party to the Sale, the Sale is not inconsistent with any policies of Baker Fentress. In addition, applicants believe that the terms of the Amended Agreement, including the consideration to be paid and received are reasonable and fair and do not involve overreaching by any of the applicants. Triangle's general partner, Mark Realty, has had extensive experience in valuing and negotiating transactions related to investments in strip shopping malls. Applicants represent that the Sale was negotiated by Mark Realty and Indigo at arms-length. As a result, applicants believe that the purchase price is fair and reasonable both as to amount and as to form of payment. Furthermore, the Sale will not result in any ongoing relationship between Indigo Group and Triangle. For the reasons discussed above, applicants believe that the proposed transaction satisfies the criteria of section 17(b).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11450 Filed 5–7–96; 8:45 am]

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[Release No. 34–37161; File No. SR–Amex–96–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Implementation of a Wireless Data Communications Infrastructure

May 2, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27, 1996, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. proposes to amend Exchange Rules 60 and 220 and to adopt a policy regarding the use of wireless data communications devices at the Exchange (''Wireless Communications Policy'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has undertaken the development of an infrastructure (''Infrastructure'') to accommodate the use of wireless data communications devices on the Trading Floor. In connection with the implementation of the Infrastructure, the Exchange seeks to amend Rule 220 to explicitly provide that the Exchange may regulate communications between points on the Floor. The Exchange also seeks to adopt a detailed policy (''Wireless Communications Policy'') regarding the use of wireless data communications devices at the Exchange. The Wireless Communications Policy will address the following issues:

1. The ability of the Exchange to administer wireless data communications on a real time basis (*e.g.*, the implementation of a protocol for prioritizing and/or managing message traffic during periods of extraordinary use);

2. Surveillance of wireless data communications;

3. Member, member firm and Exchange preservation of records of orders and trades;

4. Security with respect to confidential wireless transmissions and access to the Infrastructure;

5. Review and approval of member and member firm applications to use wireless data communications devices;

6. The fair allocation of a finite resource (*i.e.*, radio frequency bandwidth);

7. Exchange fees and allocation of expenses associated with the implementation, operation of, and enhancements to, the Infrastructure;

8. Sanctions for violations of the Exchange's Wireless Communications Policy;

9. Inspection and oversight of wireless data communications technology; and

10. The design and implementation of the Infrastructure.

The Wireless Communications Policy furthers the policy in Article IV, Section 1(e) of the Exchange Constitution which currently provides that the Exchange shall not be liable for any damages sustained by a member or member organization growing out of the use or enjoyment by such member or member organization of the facilities afforded by the Exchange to members for the conduct of their business. This provision, as well as similar provisions at other exchanges, reflect the common understanding that exchanges should not bear the risk of liability associated with member firm use of their systems. Accordingly, the Exchange will not be liable to member firms with respect to their use of the Infrastructure.

In addition, the Exchange proposes to adopt new Commentary .03 to Rule 60 which will provide that, in connection with member or member organization use of any electronic system, service, or facility provided by the Exchange to members for the conduct of their business on the Exchange: (i) the Exchange may expressly provide in the contract with any vendor providing all or part of such electronic system,