and operate STP and to possess and use related licensed nuclear materials in accordance with the same conditions and authorizations included in the current operating licenses. HL&P has also requested the issuance of license amendments reflecting the transfer of operating authority. The new operating company would be formed by the owners to become the licensed operator for STP and would have exclusive control over the operation and maintenance of the facility. The present plant organization, the oversight organizations, and the engineering and support organizations would be transferred essentially intact from HL&P to the new operating company. The technical qualifications of the new operating company organization, therefore, would be at least equivalent to those of the existing organization.

Under the proposed arrangement, ownership of STP would remain unchanged, with each owner retaining its current ownership interest. The new operating company would not own any portion of STP. Likewise, the owners' entitlement to capacity and energy from STP would not be affected by the proposed change in operating responsibility for STP from HL&P to the new operating company. The owners would continue to provide all funds for operation, maintenance, and decommissioning by the operating company of STP. The responsibility of the owners would include funding for any emergency situations that might arise at STP.

HL&P requested the Commission's approval of the transfer of operating authority to a new operating company and issuance of conforming license amendments pursuant to 10 CFR 50.80 and 50.90. Notice of this application for approval and an opportunity for a hearing was published in the **Federal Register** on November 7, 1996 (61 FR 57719), and an Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on November 18, 1996 (61 FR 58710).

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information submitted in the letters of August 23, October 1 and 15, 1996, and January 28, 1997, and other information before the Commission, the NRC staff has determined that the proposed new operating company is qualified to hold the licenses to the extent and for the purposes described above, and that the transfer of the licenses as described above is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. These findings are supported by a Safety Evaluation dated April 8, 1997.

III

Accordingly, pursuant to Sections 105, 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §§ 2135, 2201(b), 2201(i), and 2234, and 10 CFR 50.80, *It is hereby ordered* that the Commission consents to the transfer of the licenses as described herein to the proposed new operating company, subject to the following conditions:

(1) The new operating company, hereafter referred to as STPNOC [STP Nuclear Operating Company], shall not market or broker power or energy from South Texas Project, Units 1 and 2. The Owners are responsible and accountable for the actions of STPNOC to the extent that said actions affect the marketing or brokering of power or energy from South Texas Project, Units 1 and 2, and, in any way, contravene the antitrust conditions in Appendix C of the licenses; and

(2) Should the formation of the new operating company and transfer of operating authority not be completed by March 31, 1998, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

Action on the proposed conforming license amendments will be taken upon implementation of the transfer approved by this Order.

For further details with respect to this Order, see the licensee's application dated August 23, 1996, as supplemented by letters dated October 1 and 15, 1996, and January 28, 1997, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC, and at the local public document room located at the Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Dated at Rockville, Maryland, this 8th day of April 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10213 Filed 4–18–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22616; 812–10290]

Merrill Lynch Asset Management, L.P., et al.; Notice of Application

April 14, 1997.

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

ACTION: Notice of application for an Order under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Merrill Lynch Asset Management, L.P. (''MLAM''), and Merrill Lynch, Pierce, Fenner & Smith Incorporated (''MLP'').

RELEVANT ACT SECTIONS: Order of exemption requested pursuant to (a) sections 6(c) and 17(b) of the Act for an exemption from section 17(a); (b) section 6(c) for an exemption from section 17(e) and rules 10f–3 and 17e–1; and (c) section 10(f) for an exemption from section 10(f).

SUMMARY OF APPLICATION: Applicants request an order to permit MLP to engage in certain principal and brokerage transactions with ''multi-manager'' investment companies that are subadvised by its affiliated person, Hotchkis & Wiley (''H&W''). The transactions would be between MLP and those portions of the investment companies that are not subadvised by H&W.

FILING DATES: The application was filed on August 12, 1996, and amended on November 4, 1996, February 20, 1997, and April 9, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is incorporated herein.

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 9, 1997, 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, NW., Washington, DC 20549. Applicants, 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Elizabeth G. Osterman, 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 from the SEC's Public Reference Branch.

Applicants' Representations

1. H&W is a California limited partnership that is registered as an investment adviser under the Investment Advisers Act of 1940. H&W is an operating division of MLAM, which in turn is owned and controlled by Merrill Lynch & Co., Inc. MLP, a Delaware corporation, is a subsidiary of Merrill Lynch & Co., Inc. and is a registered broker-dealer and a registered investment adviser.

2. H&W currently serves, and may in the future serve, as one of several investment advisers to certain separate portfolios (the ''Portfolios'') of registered investment companies that otherwise have no affiliation with applicants (the ''Unaffiliated Funds''). H&W currently serves as subadviser to certain Portfolios of the following Unaffiliated Funds: Target Portfolio Trust, Landmark Funds I, American AAdvantage Funds, American AAdvantage Mileage Funds, and the Hirtle Callaghan Trust. Each of the Portfolios is advised by a primary investment adviser (''Primary Adviser'') and/or one or more subadvisers in addition to H&W (''Unaffiliated Subadvisers''). The Primary Adviser and Unaffiliated Subadvisers are not affiliated persons of applicants or affiliated persons of such affiliated persons (''second-tier affiliates''). (The portion of each Portfolio that is subadvised by an Unaffiliated Subadviser is an ''Unaffiliated Portion.'') [1]

3. Applicants request relief only or those Portfolios where H&W manages a discrete portion of the Portfolio and there are one or more Unaffiliated Portions of the same Portfolio managed by Unaffiliated Subadvisers (such Portfolios may also be referred to as ''Multi-Managed Portfolios''). In a Multi-Managed Portfolio, each subadviser's contract assigns it responsibility to manage a discrete portion of the Portfolio. Each subadviser is responsible for making independent investment and brokerage allocation decision based on its own research and credit evaluations. H&W does not serve as subadviser to any Multi-Managed Portfolio in which the Primary Adviser dictates or influences brokerage allocation decisions. Each subadviser to a Multi-Managed Portfolio is compensated based on a percentage of the value of assets allocated to that subadviser.

4. Applicants request that relief be extended to both the Unaffiliated Portion of the Multi-Managed Portfolios of the above Unaffiliated Funds for which H&W currently services as subadviser, as well as to any other Multi-Managed Portfolio to which H&W may in the future provide investment advisory services and which is operated in a manner consistent with the terms and the conditions of the application. In addition, applicants request that relief be extended to broker-dealers that control, are controlled by, or are under common control with MLP (collectively with MLP, ''Affiliated Broker-Dealers''). A ''broker-dealer'' or ''Affiliated Broker-Dealer'' may or may not be registered as a broker-dealer under Securities Exchanged Act of 1934 and may include affiliates of MLP that are government securities dealers, municipal securities dealers, futures commission merchants, and banks.

Applicants' Legal Analysis

A. Relief From 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 or an affiliate of such affiliated person. Section 2(a)(3) of the Act defines an affiliated person of another person to be any person directly or indirectly controlling, or under control with such person and any investment adviser of an investment company

2. H&W is an affiliated person of the Portfolios that it subadvises. It is also under common control with the Affiliated Broker-Dealers. Thus, the Affiliated Broker-Dealers would be second-tier affiliates of a Multi-Managed Portfolio managed by H&W as subadviser. As a result, any transactions sought to be effected by the Unaffiliated Subadviser with an Affiliated Broker-Dealer on behalf of a Multi-Managed Portfolio would be subject to the provisions of section 17(a). Applicants seek relief from section 17(a) to exempt principal transactions entered into in the ordinary course of business between the Unaffiliated Portions and an Affiliated Broker-Dealer. The requested exemption would apply only where an Affiliated Broker-Dealer is deemed to be an affiliated person or a second-tier affiliate of a Portfolio solely because H&W is the subadviser to discrete portion of the assets of that Portfolio.

3. Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the pubic interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

4. Section 17(b) permits the SEC to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned. For the reasons stated below, applicants believe that the terms of the proposed transactions meet the standards of sections 6(c) and 17(b).[2]

5. Applicants submit that the primary purpose of section 17(a) is to prevent self-dealing. Applicants state that when the person acting on behalf of an investment company has no direct or indirect pecuniary interest in a party to a principal transaction, then the abuses that section 17(a) is designed to prevent are not present. Applicants state that this is the situation in each transaction for which relief is requested because neither the Primary Adviser nor the subadviser to the Unaffiliated Portion are affiliates of H&W or its affiliated persons.

6. Applicants state that each subadviser's contract assigns it responsibility to manage a discrete portion of the Multi-Managed Portfolio. The contracts neither require nor authorize collaboration between or among subadvisers. Each subadviser is responsible for making independent investment and brokerage allocation decisions based on its own research and credit evaluations. Applicants state that H&W does not serve as subadviser to any Portfolio where the Primary Adviser dictates or influences brokerage

[1] The terms ''Unaffiliated Subadviser'' and ''Unaffiliated Portion'' include the Primary Adviser and the portion of a Portfolio directly advised by such Primary Adviser, respectively, provided that the Primary Adviser manages its portion of the Portfolio independently of the portions managed by the subadvisers, including H&W, and the Primary Adviser does not control or influence H&W or H&W's investment decisions for its portion of such Portfolio. In addition, such terms include the co-investment manager and the portion of a Portfolio managed by such co-investment manager, respectively, where the relationship of H&W and such co-investment manager is directly with the Portfolio and there is no Primary Adviser, provided that H&W and any such co-investment manager manage their respective portions of the Portfolio independently.

[2] Section 17(b) could be interpreted to exempt only a single transaction. However, the Commission, under section 6(c) of the Act, may exempt a series of transactions that otherwise would be prohibited by section 17(a).

allocation or investment decisions, or has the contractual right to do so. Applicants submit that in managing a discrete portion of a Portfolio, each subadviser acts for all practical purposes as though it is managing a separate investment company. Further, applicants state that, for each transaction for which relief is requested, the Unaffiliated Subadviser would be dealing with an Affiliated Broker-Dealer that is a competitor of that subadviser. Applicants believe therefore, that each such transaction would be the product of arm's length bargaining.

7. In addition, applicants state that the method of compensating subadvisers in the context of a multiple subadviser Portfolio furthers the element of competition among them. Applicants state that subadvisers are paid on the basis of a percentage of the value of the assets allocated to their management. Applicants argue that the execution of a transaction to the disadvantage of the Unaffiliated Portion of the Portfolio would disadvantage the Unaffiliated Subadviser to the extent that it diminishes the value of the Unaffiliated Portion of the Portfolio, with no countervailing benefit to the Unaffiliated Subadviser. Applicants further submit that the Primary Adviser's power to dismiss subadvisers or to change the portion of a Portfolio allocated to each reinforces a subadviser's incentive to maximize the investment performance of its own portion of the Portfolio.

B. Relief From Section 17(e) and Rule 17e–1

1. Section 17(e)(2)(A) of the Act prohibits an affiliate or a second-tier affiliate of an investment company from acting as broker in connection with the sale of securities to or by the investment company, to receive a commission, fee or other remuneration for effecting such transaction which exceeds the usual and customary broker's commission if the sale is effected on a securities exchange.

2. Rule 17e–1 sets forth the conditions under which an affiliated person or a second-tier affiliate of an investment company may receive a commission, fee, or other remuneration which would not exceed the ''usual and customary broker's commission'' for purposes of section 17(e)(2)(A). Paragraph (b) of rule 17e–1 requires the investment company's board of directors, including a majority of the disinterested directors, to adopt certain procedures and to determine at least quarterly that all transactions effected in reliance on rule 17e–1 in the preceding quarter were effected in compliance with the company's rule 17e–1 procedures. Rule 17e–1(c) specifies the records that must be maintained by each investment company with respect to any transactions effected pursuant to rule 17e–1.

3. Applicants request relief under section 6(c) to the extent necessary to permit the Unaffiliated Portion of each Portfolio to pay commissions, fees, or other remuneration to an Affiliated Broker-Dealer, acting as broker in the ordinary course of business, in connection with the sale of securities to or by such Unaffiliated Portion of a Portfolio, without complying with the requirements of rule 17e–1 (b) and (c) under the Act. In addition, applicants request that such relief extend to transactions in futures contracts and related options as well as securities. For the reasons stated below, applicants believe that the request for relief meets the standards of section 6(c).

4. Applicants state that the transactions for which relief is requested will involve no conflict of interest and that there is no possibility of self-dealing. Applicants submit that the pecuniary interests of the particular Unaffiliated Subadviser are directly aligned with those of the Unaffiliated Portion of the Portfolio and that, therefore, the brokerage commissions, fees, or other remuneration to be paid by the Unaffiliated Portion will be reasonable and fair.

5. Applicants argue that the procedures imposed by rule 17e–1 (b) and (c) will be unduly burdensome to the Unaffiliated Funds and the Unaffiliated Subadvisers. Applicants state that H&W and MLP's lack of control over the Unaffiliated Funds makes such procedures unnecessary for the protection of shareholders, since the absence of a control relationship will ensure that all brokerage transactions will be executed on an arm's length basis. Moreover, applicants submit that even if the unaffiliated Funds had procedures relating to the selection of an Affiliated Broker-Dealer as broker by the Unaffiliated Subadvisers, compliance with such procedures would be entirely within the control of such Unaffiliated Subadvisers and not within the control of H&W or MLP.

6. In addition, applicants state that it is not uncommon for an Unaffiliated Subadviser to place orders for trades for the respective Unaffiliated Portions of the Portfolio at the same time and with the same broker-dealer as trades for other clients. Applicants submit that since H&W, MLP, and their affiliates are not affiliated with such Unaffiliated Subadvisers or the Unaffiliated Fund (other than by virtue of H&W's subadvisory relationship with the Portfolio), the requirement that such transactions be monitored under rule 17e–1 greatly complicates the compliance process for such Unaffiliated Subadviser and the Unaffiliated Funds.

7. Applicants state that each Unaffiliated Subadviser that selects an Affiliated Broker-Dealer as broker will do so in accordance with the brokerage allocation practices set forth in the prospectus and statement of additional information for the respective Unaffiliated Fund (*i.e.*, subject to best price and execution). In addition, applicants state that each Unaffiliated Subadviser selecting broker-dealers for its Unaffiliated Portion of a Portfolio has an inherent interest in obtaining best price and execution, so as to maximize the Unaffiliated Portion of the Portfolio's potential return. Conversely, applicants submit that such Unaffiliated Subadvisers have no interest in benefiting H&W or its affiliates at the expense of the Unaffiliated Portions of the Portfolios they manage.

C. Relief from Section 10(f) and Rule 10f–3

1. Section 10(f), in relevant part, prohibits a registered investment company from knowingly purchasing or otherwise acquiring during the existence of any underwriting or selling syndicate, any security (except a security of which the company is the issuer) a principal underwriter of which is an officer, director, member of an advisory board, investment adviser, or employee of the company, or an affiliated person of any of the foregoing. Section 10(f) also provides that the SEC may exempt by order any transaction or classes of transactions from any of the provisions of section 10(f), if and to the extent that such exemption is consistent with the protection of investors.

2. Applicants acknowledge that each subadviser to a Multi-Managed Portfolio which has multiple subadvisers, although under contract to manage only a distinct portion of the Portfolio, is an investment adviser to the Portfolio itself, not just the portion of the Portfolio it manages. As such, all purchases of securities by such subadviser on behalf of the Portfolio from an underwriting syndicate a principal underwriter of which is an affiliated person of any of the Portfolio's other subadvisers, fall within the prohibitions section 10(f).

3. Applicants request relief pursuant to section 10(f) exempting from the provisions of section 10(f) any purchase of securities by an Unaffiliated Portion of a Multi-Managed Portfolio in the ordinary course of business during the

existence of an underwriting or selling syndicate, a principal underwriter of which is an Affiliated Broker-Dealer.

4. Applicants believe that the requested relief meets the standards set forth in section 10(f). Applicants state that section 10(f) was designed to prevent the practice of ''dumping'' otherwise unmarketable securities on investment companies, either by forcing the investment company to purchase unmarketable securities from the underwriting affiliate itself, or by forcing or encouraging the investment company to purchase such securities from another member of the syndicate. Applicants submit that such abuses are not present in the context of Multi-Managed Portfolios to any greater extent than is the case with a series investment company with unaffiliated subadvisers to separate portfolios. As stated above in the context of sections 17 (a) and (e) transactions, in each underwriting transaction that would be subject to the requested relief, the Unaffiliated Subadviser would be dealing, on behalf of the Unaffiliated Portion of the Portfolio, with an Affiliated Broker-Dealer that is a competitor of the Unaffiliated Subadviser in an arm's length arrangement.

5. Rule 10f–3 exempts certain transactions from the prohibitions of section 10(f) if specified conditions are met. Paragraph (d) of rule 10f–3 provides that the amount of securities of any class of an issue to be purchased by the investment company, or by two or more investment companies having the same investment adviser, shall not exceed 4% of the principal amount of the offering of such class or $500,000 in principal amount, whichever is greater, but in no event greater than 10% of the principal amount of the offering.

6. Applicants also request exemptive relief pursuant to section 6(c) to the extent necessary so that where a portion of a Portfolio managed by H&W purchases securities in reliance upon rule 10f–3, for purposes of determining H&W's compliance with the percentage limits of rule 10f–3(d), such purchases will not be aggregated with any purchases that might be made by an Unaffiliated Portion of the Portfolio. For the reasons below, applicants believe the requested relief meets the standards of section 6(c).

7. Applicants believe that the restrictions of rule 10f–3 would erect an unnecessary barrier to their purchase of securities in underwritings where there is no conflict of interest present. Applicants state that in order to comply with the restrictions of rule 10f–3(d), it would be necessary for all of the subadvisers to coordinate their securities purchases in underwriting to ensure compliance, which would require communication among them regarding their investment plans. Applicants state that such communication would otherwise be unnecessary. In addition, applicants submit that it would be contrary to the interests of shareholders to maintain unnecessary barriers to purchases by the Portfolio of securities that conform to its investment objective and policies where there is no reason to fear ''dumping'' or other self-dealing. Applicants state that H&W would comply with rule 10f–3 with respect to transactions on behalf of the portion of any Multi-Managed Portfolio it subadvises.

Applicants' Conditions

Applicants agree that any other of the SEC granting the requested relief will be subject to the following conditions:

1. Each Portfolio will be advised by H&W and at least one other Unaffiliated Subadviser and will be operated consistent with the manner descried in section I.C. of the application.

2. Neither H&W (except by virtue of H&W serving as subadviser to a discrete portion of a Portfolio of an Unaffiliated Fund) nor the Affiliated Broker-Dealer will be an affiliated person or a second-tier affiliate of any Unaffiliated Subadviser or any officer, director, or employee of the Unaffiliated Fund engaging in the transaction.

3. H&W will not directly or indirectly consult with any Unaffiliated Subadvisers concerning allocation of principal or brokerage transactions.

4. H&W will not participate in any arrangement whereby the amount of its subadvisory fees will be affected by the investment performance of an Unaffiliated Subadviser.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–10159 Filed 4–18–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Safeway Inc., Common Stock, $.01 Par Value) File No. 1–41

April 15, 1997.

Safeway Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Pacific Exchange (''PCX'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company's Security has been listed on the New York Stock Exchange, Inc. (''NYSE'') since the Company's initial public offering in 1990. The Company chose not to list on the Exchange at that time because of the incremental listing fees involved. In 1994, the Company was approached by the Exchange with an offer to list on the Exchange at no charge. The Company agreed to list on the Exchange at that time on the belief that some incremental value to the Company would be achieved by the additional listing. Since the listing on the Exchange, however, the Company has not perceived any discernible value added by the additional listing. The Company has determined that the annual maintenance fee for the additional listing on the Exchange is not a justified expense, and therefore has decided to delist. The Company's Security will continue to list on the NYSE.

Any interested person may, on or before May 6, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–10158 Filed 4–18–97; 8:45 am]

BILLING CODE 8010–01–M