Van Kampen Small Capitalization Fund [File No. 811–6421]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 12, 1999, applicant made a liquidating distribution to its sole shareholder. Expenses of approximately $450 incurred in connection with the liquidation were paid by Van Kampen Investments Inc., the holding company of applicant's adviser.

Filing Dates: The application was filed on March 4, 1999. Applicant has agreed to file an amendment during the notice period.

Applicant's Address: 1 Parkview Plaza, P.O. Box 5555, Oakbrook Terrace, Illinois 60181.

The Cardinal Group [File No. 811–7588]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 19, 1998, applicant transferred the assets and liabilities of its six series to corresponding series of Fountain Square Funds in exchange for shares of the corresponding acquiring fund based on net asset value. Expenses of approximately $550,000 were incurred in connection with the reorganization and were paid by Fifth Third Bank, the investment adviser to the acquiring funds.

Filing Dates: The application was filed on March 5, 1999. Applicant has agreed to file an amendment during the notice period.

Applicant's Address: 155 East Broad Street, Columbus, Ohio 43215.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8063 Filed 3–31–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41211; File No. 600–22]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Order Granting Approval of Extension of Temporary Registration as a Clearing Agency

Marach 24, 1999.

On March 11, 1999, the MBS Clearing Corporation (''MBSCC'') filed[1] with the Securities and Exchange Commission (''Commission'') an application pursuant to Section 19(a) of the Securities Exchange Act of 1934 (''Act'')[2] requesting that the Commission grant MBSCC permanent registration as a clearing agency under Section 17A of the Act or in the alternative extend MBSCC's temporary registration until permanent registration is granted.[3] Because MBSCC's current temporary registration expires on March 31, 1999, the Commission is extending MBSCC's temporary registration as a clearing agency through March 31, 2000, while the Commission completes its review of MBSCC's application for permanent registration. The Commission is publishing this notice and order to solicit comments from interested persons and to extend MBSCC's temporary registration as a clearing agency through March 31, 2000.

On February 2, 1987, the Commission granted MBSCC's application for registration as a clearing agency pursuant to Sections 17A(b)[4] and 19(a)(1)[5] of the Act and Rule 17Ab2–1(c)[6] thereunder for a period of eighteen months.[7] Subsequently, the Commission has extended MBSCC's temporary registration as a clearing agency several times with the most current extension extending MBSCC's temporary registration through March 31, 1999.[8]

As discussed in detail in the original order granting MBSCC 's registration, one of the primary reasons for MBSCC's registration was to enable it to provide for the safe and efficient clearance and settlement of transactions in mortgage-backed securities. Since its original temporary registration order, MBSCC has implemented many improvements and continues to work towards enhancing the safety and efficiency of its operations. For example, during the past year, MBSCC modified its rules to strengthen its processes for liquidating open trades when MBSCC ceases to act for a participant.[9] In addition, MBSCC increased the number of directors on its board of directors from thirteen to fifteen, which allows two additional participants to be represented MBSCC's board.[10]

MBSCC has functioned effectively as a registered clearing agency for over ten years. Accordingly, in light of MBSCC's past performance and the need for continuity of the services MBSCC provides to its participants, the Commission believes that it is necessary and appropriate in the public interest and for the prompt and accurate clearance and settlement of securities transactions to extend MBSCC's temporary registration through March 31, 2000. During this temporary registration period, the Commission anticipates that it will act on MBSCC's application for permanent registration. Any comments received during MBSCC's temporary registration will be considered in conjunction with the Commission's review of MBSCC's request for permanent registration as a clearing agency under Section 17A of the Act.[11]

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the request for permanent registration as a clearing agency that are filed with the Commission, and all written communications relating to the extension between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. 600–22.

Conclusion

On the basis of the foregoing, the Commission finds the extending MBSCC's temporary registration as a clearing agency is consistent with the

[1] Letter from Anthony H. Davidson, Managing Director and General Counsel, MBSCC (March 11, 1999).

[2] 15 U.S.C. 78s(a).

[3] 15 U.S.C. 78q–1.

[4] 15 U.S.C. 78q–1(b).

[5] 15 U.S.C. 78s(a)(1).

[6] 17 CFR 240.17Ab2–1(c).

[7] Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

[8] Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 34212; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; 37372 (June 26, 1996), 61 FR 35281; 38784 (June 27, 1997) 62 FR 36587; and 39776 (March 20, 1998) 63 FR 14740.

[9] Securities Exchange Act Release No. 39747 (March 13, 1999), 63 FR 13712 [File No. FR–MBSCC–97–10].

[10] Securities Exchange Act Release No. 41104 (December 5, 1997), 62 FR 65466 [File No. FR–MBSCC–98–03].

[11] 15 U.S.C. 78q–1.

Act and in particular with Section 17A of the Act.[12]

It is therefore ordered, pursuant to Section 19(a) of the Act, that MBSCC's temporary registration as a clearing agency (File No. 600–22) be, and hereby is, extended through March 31, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Dos. 99–8064 Filed 3–31–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41217; File No. SR–MSRB–97–16]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Activities of Financial Advisors

March 26, 1999.

I. Introduction

On December 23, 1997, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB''), submitted to the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] a proposed rule change relating to activities of financial advisors. The Board filed Amendments No. 1[3] and No. 2[4] to the proposed rule change on April 16, 1998 and January 14, 1999, respectively. The proposed rule change, as amended, was published for comment in the **Federal Register** on February 23, 1999.[5]

The Commission received one comment letter on the proposal.[6] the commenter objected to the proposed rule change because it does not require the financial advisor to inform the issuer of its intent to act as remarketing agent on an issue of securities prior to beginning work on that issue. In response, the MSRB stated that financial advisors may not know at the beginning stage of work on an issue whether the issue will be long or short term and whether it will be available to act as a remarketing agent for the issue when it is remarketed.[7] The Commission believes the proposal provides the issuer with sufficient information and time to select a suitable remarketing agent. For these reasons and those set forth below, this order approves the proposed rule change, as amended.

II. Description of the Proposal

Rule G–23,[8] on activities of financial advisors, establishes disclosure and other requirements for dealers that act as financial advisors to issuers of municipal securities. The rule is designed principally to minimize the *prima facie* conflict of interest that exists when a dealer acts as both financial advisor and underwriter with respect to the same issue of municipal securities. Specifically, Rule G–23 requires a financial advisor to alert the issuer to the potential conflict of interest that might lead the dealer to act in its own best interest as underwriter rather than the issuer's best interest.[9]

In certain instances, some financial advisors also have acted as remarketing agents for issues on which they advised the issuer. To address this situation and its potential conflict of interest, a proposed rule change was filed to require a financial advisor, prior to entering into a remarketing agreement for an issue on which it advised the issuer, to disclose in writing to the issuer the terms of the remuneration the financial advisor could earn as remarketing agent on such issue and that there may be a conflict of interest in changing from the capacity of financial advisor to remarketing agent. The proposed rule change also required that the financial advisor receive the issuer's acknowledgment in writing of receipt of such disclosures. Under the proposal, when these requirements are met, a dealer acting as financial advisor for an issue also could serve as remarketing agent for that issue.

Commission staff requested that the proposed rule change be revised to include a provision requiring issuer consent to the dealer's dual role, along with certain other technical language changes.[10] amendment No. 2 revises this proposal to require that a dealer that has a financial advisory relationship with an issuer with respect to a new issue of municipal securities, prior to acting as a remarketing agent for that issue, disclose in writing to the issuer that there may be a conflict of interest in acting as both financial advisor and remarketing agent for the securities with respect to which the financial advisory relationship exists and disclose the source and basis of the remuneration the dealer could earn as remarketing agent on such issue. This written disclosure to the issuer can be in a separate writing provided to the issuer prior to the execution of the remarketing agreement or the disclosure can be in the remarketing agreement. The issuer must expressly acknowledge in writing to the broker, dealer, or municipal securities dealer receipt of such disclosure and consent to the financial advisor acting in both capacities and to the source and basis of the remuneration. If the disclosure is made prior to the execution of the remarketing agreement, the amount of the specific fee paid by the issuer to the remarketing agent still may be negotiated in the remarketing agreement. If the disclosure is made in the remarketing agreement, the dealer will have negotiated the amount of its fee with the issuer.

III. Discussion

The Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 15B(b)(2)(C)[12] of the Act. Section 15B(b)(2)(C) of the Act requires, among other things, that the rules of the Board be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. Specifically, the Commission believes the proposed rule change will prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade by requiring a dealer that has a financial advisory

[12] 15 U.S.C. 78q–1.

[13] 17 CFR 200.30–3(a)(50)(i).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Amendment No. 1 made certain technical changes are revised statements concerning comments received on the draft amendment published by the Board for comment from its members.

[4] After discussion with Commission staff, the MSRB filed Amendment No. 2 to revise the language of Rule G–23 to address certain disclosure and consent issues raised by the proposed rule change.

[5] *See* Exchange Act Release No. 41053 (Feb. 12, 1999, 64 FR 8894.

[6] Letter from Robert E. Donovan, Executive Director, Rhode Island Health and Educational Building Corporation, to Secretary, SEC, dated March 15, 1999.

[7] Letter from Ronald W. Smith, Senior Legal Associate, MSRB, to Sonia Patton, Attorney, SEC, dated March 22, 1999.

[8] *MSRB Manual,* General Rules, Rule G–23 (CCH) ¶3611.

[9] *See supra* note 8.

[10] *See supra* note 4.

[11] In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. The proposed rule change should improve efficiency and competition because it prevents all municipal securities dealers from acting as both financial advisor and remarketing agent with respect to a new issue of securities without first obtaining the issuer's consent. 15 U.S.C. 78f(b)(7).

[12] 15 U.S.C. 78o–4(b)(2)(C).