New Agreements by shareholders. Applicants state that the Board, including the Independent Trustees, will undertake the review required by section 15(c) of the Act and that the scope and quality of services provided to the Portfolios by the Successor Sub-adviser during the Interim Period will be at least equivalent to that provided under the Existing Agreements. Applicants also state that such services will be provided at fees unchanged from the fees paid under the Existing Agreements.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. The Interim Agreement for each Portfolio will have substantially the same terms and conditions as the Existing Agreement for such Portfolio, except for the name of the Successor Sub-adviser, the effective and termination dates and the inclusion of escrow arrangements.

2. The advisory fees payable by the Manager to the Successor Sub-adviser for each Portfolio during the Interim Period will not be greater than the fees payable under the Existing Agreement. The portion of the advisory fees payable by the Manager to the Successor Sub-adviser during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the escrow account (including interest earned on such amounts) will be paid (a) to the Successor Sub-adviser after the requisite approval of the New Agreement for such Portfolio is obtained, or (b) to the Portfolio in the absence of such approval.

3. Each Portfolio will promptly schedule a meeting of shareholders to vote on approval of its New Agreement to be held on or before the 150th day following the termination of its Existing Agreement (but in no event later than September 30, 1999).

4. The Manager will take, and the Successor Sub-adviser for each Portfolio will be required to take, all appropriate steps so that the scope and quality of sub-advisory services provided to the Portfolio during the Interim Period will be at least equivalent, in the judgment of the Fund's Board, including the Independent Trustees, to the scope and quality of services previously provided under the Existing Agreement for the Portfolio.

5. The Board of the Fund, including a majority of the Independent Trustees, will have approved the Interim Agreement and the New Agreement for each Portfolio in accordance with the requirements of section 15(c) of the Act prior to termination of the Existing Agreement for the Portfolio.

6. The costs of preparing and filing the application and the costs related to the solicitation of shareholder approval of the New Sub-advisory Agreements will be borne by the Portfolios, provided that the Board of Trustees, including a majority of the Independent Trustees, determines that the Manager or a controlling person of the Manager will not directly or indirectly receive money or other benefit, including, but not limited to, an increased portion of the fees under the Management Agreements for the Portfolios or a reduced level of responsibility, in connection with the New Sub-advisory Agreements.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–9315 Filed 4–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23773; 812–11030–02]

AMR Investment Services Trust, et al.; Notice of Application

April 7, 1999.

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

ACTION: Notice of an application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act, under section 6(c) for an exemption from section 17(e) of the Act and rule 17e–1 under the Act, and under section 10(f) of the Act for an exemption from section 10(f).

SUMMARY OF THE APPLICATION: Applicants request an order to permit certain registered open-end management investment companies advised by several investment advisers to engage in principal and brokerage transactions with a broker-dealer affiliated with one of the investment advisers and to purchase securities in offerings underwritten by a principal underwriter affiliated with one of the investment advisers. The transactions would be between a broker-dealer or principal underwriter and a portion of the investment company's portfolio not advised by the adviser affiliated with the broker-dealer or principal underwriter. Applicants also request relief to permit a portion of the portfolio to purchase securities in offering underwritten by a principal underwriter affiliated with the investment adviser to that portion if the purchase is in accordance with all of the conditions to rule 10f–3 under the Act, except for the provision that would require aggregation of certain purchases.

APPLICANTS: AMR Investment Services Trust (''AMR Trust''), AMR Investment Services, Inc. (''Adviser''), Brandywine Asset Management, Inc. (''Brandywine''), Lazard Freres & Co. LLC (''LF''), Legg Mason Wood Walker, Inc. (''LMWW''), and Howard, Weil, Labouisse, Friedrichs, Inc. (''HWLF'').

FILING DATES: The application was filed on February 26, 1998, and amended on March 26, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 May 3, 1999, 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: AMR Trust and Adviser, 4333 Amon Carter Boulevard, MD 5645, Fort Worth, TX 76155; Brandywine, 201 North Walnut Street, Wilmington, DE 19801; LF, 30 Rockefeller Plaza, 59th Floor, New York 10112; LMWW, 100 Light Street, Baltimore, MD 21202; and HWLF, 1100 Light Street, Baltimore, MD 21202; and HWLF, 1100 Poydras Street, Ste. 3500, New Orleans, LA 70163.

FOR FURTHER INFORMATION CONTACT: Michael W. Mundt, Staff Attorney, at (202) 942–0578, or George J. Zornada, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

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 (telephone (202) 942–8090).

Applicants' Representations

1. AMR Trust is a New York common law trust registered under the Act as an open-end management investment company with nine series. Interests in AMR Trust are offered to the American AAdvantage Funds and the American AAdvantage Mileage Funds (collectively, the ''American Trusts'') and other institutions in private offerings exempt from registration under section 4(2) of the Securities Act of 1933. Each series of the American Trusts, with the exception of American AAdvantage S&P 500 Index Fund and the American AAdvantage S&P 500 Index Mileage Fund, invests all of its investable assets in a series of AMR Trust that has the same investment objectives.

2. The Adviser is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is a wholly-owned subsidiary of AMR Corporation. The Adviser provides administrative services to the American Trusts and investment advisory and administrative services to AMR Trust. The assets of certain portfolios of AMR Trust are allocated by the Adviser among two to five subadvisers (''Subadvisers''). Each Subadviser has discretion to purchase and sell securities for a discrete portion of a portfolio's assets in accordance with the portfolio's objectives, policies and restrictions, and the specific strategies provided by the Adviser [1] Each Subadviser is paid a fee by the Adviser out of the management fee received by the Adviser from AMR Trust. The Adviser also may directly advise a discrete portion of a portfolio.

3. Brandywine, a wholly owned subsidiary of Legg Mason, Inc., is an investment adviser registered under the Advisers Act that serves as Subadviser to three portfolios of AMR Trust LMWW and HWLF are broker-dealers registered under the Securities Exchange Act of 1934 (''Exchange Act'') that are also wholly owned subsidiaries of Legg Mason, Inc. LMWW and HWLF are under common control with Brandywine. LF is an investment adviser registered under the Advisers Act and a broker-dealer registered under the Exchange Act. Lazard Asset Management (''LAM'') is an operating division of LF that serves as a Subadviser.

4. The requested relief would permit: (a) LF, LMWW, HWLF, or any broker-dealer registered under the Exchange Act that itself serves as Subadviser (either directly or through a separate operating division) or is an affiliated person (an ''Affiliated Broker-Dealer'') of LAM, Brandywine, or another investment adviser serving as Subadviser (an ''Affiliated Subadviser'') to one or more series (each a ''Portfolio'') of a Multi-managed Fund (as defined below) to engage in principal transactions with a portion of the Portfolio that is advised by another Subadviser that is not an affiliated person of the Affiliated Broker-Dealer or the Affiliated Subadviser (an ''Unaffiliated Subadviser'') (each such portion, an ''Unaffiliated Portion''); (b) an Affiliated Broker-Dealer to provide brokerage services to an Unaffiliated Portion, and the Unaffiliated Portion to utilize such brokerage services, without complying with rule 17e–1 (b) and (c) under the Act; (c) an Unaffiliated Portion to purchase securities during the existence of an underwriting syndicate, a principal underwriter of which is an Affiliated Subadviser or an affiliated person of an Affiliated Subadviser (an ''Affiliated Underwriter''); and (d) a portion of the Portfolio advised by an Affiliated Subadviser (''Affiliated Portion'') to purchase securities during the existence of an underwriting syndicate, a principal underwriter of which is an Affiliated Underwriter, in accordance with the conditions of rule 10f–3 except that paragraph (b)(7) of the rule would not require the aggregation of purchases by the Affiliated Portion with purchases by an Unaffiliated Portion.[2]

5. Applicants request that the exemptive relief apply to AMR Trust or any existing or future registered open-end management investment company (a) advised by the Adviser or any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Adviser and (b) at least one other investment adviser registered under the Advisers Act or exempt from such registration (AMR Trust and such investment companies, each a ''Multi-managed Fund''). The relief also would apply as described in the application to any existing or future entity that serves as an Affiliated Subadviser, Affiliated Broker-Dealer, or Affiliated Underwriter. Any entity that currently intends to rely on the order is named as an applicant. Any other existing or future entity that relies on the order will comply with the terms and conditions of the application.

Applicants' Legal Analysis

A. Principal Transactions Between Unaffiliated Portions and Affiliated Broker-Dealers

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person of, promoter of, or principal underwriter for such company, or any affiliated person of an affiliated person, promoter, or principal underwriter. Section 2(a)(3)(E) of the Act defines an affiliated person to be any investment adviser of an investment company, and section 2(a)(3)(C) of the Act defines an affiliated person of another person to include any person directly or indirectly controlling, controlled by, or under common control with such person. Applicants state that an Affiliated Subadviser would be an affiliated person of a Portfolio, and an Affiliated Broker-Dealer would be either an Affiliated Subadviser or an affiliated person of the Affiliated Subadviser, and thus an affiliated person of an affiliated person (''second-tier affiliated'' of a Portfolio, including the Unaffiliated Portion. Accordingly, applicants state that any transactions to be effected by an Unaffiliated Subadviser on behalf of an Unaffiliated Portion of a Portfolio with an Affiliated Broker-Dealer are subject to the prohibitions of section 17(a).

2. Applicants seek relief under sections 6(c) and 17(b) to exempt principal transactions prohibited by section 17(a) because an Affiliated Broker-Dealer is deemed to be an affiliated person or a second-tier affiliate of an Unaffiliated Portion solely because an Affiliated Subadviser is the Subadviser to another portion of the same Portfolio. The requested relief would not be available if the Affiliated Broker-Dealer (except by virtue of serving as a Subadviser) is an affiliated person or a second-tier affiliate of the Adviser, the Unaffiliated Subadviser making the investment decision or any officer, director or employee of the Multi-managed Fund.

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 the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with

[1] The specific strategies are limited to general guidelines that do not restrict a Subadviser's discretion to purchase or sell particular securities for its segment of a Portfolio's assets.

[2] The terms ''Unaffiliated Subadviser,'' ''Subadviser'' and ''Unaffiliated Portion'' include the Adviser and the discrete portion of a Portfolio directly advised by the Adviser, respectively, provided that the Adviser manages its portion of the Portfolio independently of the portions managed by the other Subadvisers to the Portfolio, and the Adviser does not control or influence any other Subadviser's investment decisions as to specific securities for the other Subadviser's portion of the Portfolio.

the policy of each registered investment company and the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transaction from any provision of the Act if 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.

4. Applicants contend that section 17(a) is intended to prevent persons who have the power to control an investment company from using that power to the person's own pecuniary advantage. Applicants assert 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, the abuses that section 17(a) is designed to prevent are not present. Applicants state that if an Unaffiliated Subadviser purchases securities on behalf of an unaffiliated portion in a principal transaction with an Affiliated Broker-Dealer any benefit that might inure to the Affiliated Broker-Dealer would not be shared by the Unaffiliated Subadviser. In addtion, applicants state that Subadvisers generally are paid on the basis of a percentage of the value of the assets allocated to their management. The execution of a transaction to the disadvantage of the Unaffiliated Portion would disadvantage the Unaffiliated Subadviser to the extent that it diminishes the value of the Unaffiliated Portion. Applicants further submit that Adviser's power to dismiss Subadvisers or to change the portion of a Portfolio allocated to each Subadviser reinforces a Subadviser's incentive to maximize the investment performance of this own portion of the Portfolio.

5. Applicants state that 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 decisions based on its own research and credit evaluations. Applicants represent that the Adviser does not dictate brokerage allocation or investment decisions to any Portfolio advised by a Subadviser, or have the contractual right to do so, except with respect to a portion advised directly by the Adviser. Applicants contend 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.

6. Applicants state that the proposed transactions will be consistent with the policies of the Portfolio, since each Unaffiliated Subadviser is required to manage the Unaffiliated Portion in accordance with the investment objectives and related investment policies of the Portfolio as described in its registration statement. Applicants also assert that permitting the transaction will be consistent with the general purposes of the Act and in the public interest because the ability to engage in the transactions increases the likelihood of a Portfolio achieving best price and execution on its principal transactions, while giving rise to none of the abuses that section 17(a) was designed to prevent.

B. Payment of Brokerage Compensation by Unaffiliated Portions to Affiliated Broker-Dealers.

1. Section 17(e)(2) of the Act prohibits an affiliate or a second-tier affiliate of a registered investment company from receiving compensation for acting as broker in connection with the sale of securities to or by the investment company if the compensation exceeds the limits prescribed by the section unless otherwise permitted by rule 17e–1 under the Act. 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 which would not exceed the ''usual and customary broker's commission'' for purposes of section 17(e)(2). Rule 17e–1(b) requires the investment company's board of directors, including a majority of the directors who are not interested persons under section 2(a)(19) of the Act, to adopt certain procedures and to determine at last quarterly that all transactions effected in reliance on the rule complied with the procedures. Rule 17e–1(c) specifies the records that must be maintained by each investment company with respect to any transaction effected pursuant to rule 17e–1.

2. As discussed above, applicants state that an Affiliated Broker-Dealer is either an affiliated person (as Subadviser to another portion of the Portfolio) or a second-tier affiliate of an Unaffiliated Portion and thus subject to section 17(e). Applicants request an exemption under section 6(c) from section 17e–1 to the extent necessary to permit an Unaffiliated Portion to pay brokerage compensation 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, without complying with the requirements of rule 17e–1(b) and (c). The requested exemption would apply only where an Affiliated Broker-Dealer is deemed to be an affiliated person or a second-tier affiliate of an Unaffiliated Portion solely because an Affiliated Subadviser is the Subadviser to another portion of the same Portfolio. The relief would not apply if the Affiliated Broker-Dealer (except by virtue of serving as Subadviser) is an affiliated person or a second-tier affiliate of the Adviser, the Unaffiliated Subadviser to the Unaffiliated Portion of the Portfolio, or any officer, director or employee of the Multi-managed Fund.

3. Applicants believe that the proposed brokerage transactions involve no conflicts of interest of possibility of self-dealing and will meet the standards of section 6(c). Applicants assert that the interests of an Unaffiliated Subadviser are directly aligned with the interests of the Unaffiliated Portion it advises, and an Unaffiliated Subadviser will enter into brokerage transactions with Affiliated Broker-Dealers only if the fees charged are reasonable and fair as required by rule 17e–1(a). Applicants also note that an Unaffiliated Subadviser has a fiduciary duty to obtain best price and execution for the Unaffiliated Portion.

C. Purchases of Securities From Offerings With Affiliated Underwriters

1. Section 10(f) of the Act, 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 those persons. Section 10(f) also provides that the Commission may exempt by order any transaction of 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. Rule 10f–3 under the Act exempts certain transactions from the prohibitions of section 10(f) if specified conditions are met. Paragraph (b)(7) of rule 10f–3 limits the securities purchased by the investment company, or by two or more investment companies having the same investment adviser, to 25% of the principal amount of the offering of the class of securities.

2. Applicants state that each Subadviser, although under contract to manage only a distinct portion of a Portfolio, is considered an investment adviser to the entire Portfolios. As a result, applicants believe that all purchases of securities by an Unaffiliated Portion from an

underwriting syndicate a principal underwriter of which is an Affiliated Underwriter would be subject to section 10(f).

3. Applicants request relief under section 10(f) from that section to permit an Unaffiliated Portion to purchase securities during the existence of an underwriting or selling syndicate, a principal underwriter of which is an Affiliated Underwriter. Applicants request relief from section 10(f) only to the extent those provisions apply solely because an Affiliated Subadviser is an investment adviser to the Portfolio. The requested relief would not be available if the Affiliated Underwriter (except by virtue of serving as Subadviser) is an affiliated person or a second-tier affiliate of the Adviser the Unaffiliated Subadviser making the investment decision with respect to the Unaffiliated Portion of the Portfolio, or any officer, director, or employee of the Multimanaged Fund. Applicants also seek relief from section 10(f) to permit an Affiliated Portion to purchase securities during the existence of an underwriting syndicate, a principal underwriter of which is an Affiliated Underwriter, provided that the purchase will be in accordance with the conditions of rule 10f–3, except that paragraph (b)(7) of the rule will not require the aggregation of purchases by the Affiliated Portion with purchases by an Unaffiliated Portion.

4. Applicants state that section 10(f) was adopted in response to concerns about the ''dumping'' of otherwise unmarketable securities on investment companies, either by forcing the investment company to purchase unmarketable securities from its underwriting affiliate, or by forcing or encouraging the investment company to purchase the securities from another member of the syndicate. Applicants submit that these abuses are not present in the context of the Portfolios because a decision by an Unaffiliated Subadviser to purchase securities from an underwriting syndicate, a principal underwriter of which is an Affiliated Underwriter, involves no potential for ''dumping.'' In addition, applicants assert that aggregating purchases would serve no purpose because there is no collaboration among Subadvisers, and any common purchases by an Affiliated Subadviser and an Unaffiliated Subadviser would be coincidence.

Applicants' Conditions

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

1. Each Portfolio relying on the requested order will be advised by an Affiliated Subadviser and at least one Unaffiliated Subadviser and will be operated in the manner described in the application.

2. No Affiliated Subadviser, Affiliated Broker-Dealer, or Affiliated Underwriter (except by virtue of serving as Subadviser to a discrete portion of a Portfolio) will be an affiliated person or a second-tier affiliate of the Adviser, any Unaffiliated Subadviser, or any officer, director, or employee of a Multi-managed Fund.

3. No Affiliated Subadviser will directly or indirectly consult with any Unaffiliated Subadvisers concerning allocation of principal or brokerage transactions.

4. No Affiliated Subadviser will participate in any arrangement whereby the amount of its subadvisory fees will be affected by the investment performance of an Unaffiliated Subadviser.

5. With respect to purchases of securities by an Affiliated Portion during the existence of any underwriting or selling syndicate, a principal underwriter of which is an Affiliated Underwriter, the conditions of rule 10f–3 will be satisfied except that paragraph (b)(7) will not require the aggregation of purchases by the Affiliated Portion with purchases by an Unaffiliated Portion.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–9245 Filed 4–13–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23774; File No. 812–11388]

The Equitable Life Assurance Society of the United States, et al.

April 7, 1999.

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

ACTION: Notice of Application for an order under Section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'') granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to permit the recapture of credits applied to contributions made under certain deferred variable annuity contracts.

SUMMARY OF APPLICATION: Applicants seek an order under Section 6(c) of the Act to the extent necessary to permit, under specified circumstances, the recapture of credits applied to contributions made under deferred variable annuity contracts and certificates (the ''Contracts'') that Equitable will issue through the Separate Accounts, as well as other contracts that Equitable may issue in the future through Future Accounts that are substantially similar in all material respects to the Contracts (the ''Future Contracts''). Applicants also request that the order being sought extend to any other National Association of Securities Dealers, Inc. (''NASD'') member broker-dealer controlling or controlled by, or under common control with, Equitable, whether existing or created in the future, that serves as a distributor or principal underwriter for the Contracts or Future Contracts offered through the Separate Accounts or any Future Account (''Equitable Broker-Dealer(s)'').

APPLICANTS: The Equitable Life Assurance Society of the United States (''Equitable Life''), The Equitable of Colorado, Inc. (''EOC,'' and together with Equitable Life, ''Equitable''), Separate Account No. 45 of Equitable Life (''SA 45''), Separate Account No. 49 of Equitable Life (''SA 49''), Separate Account VA of EOC (''SA VA,'' and together with SA 45 and SA49, the ''Separate Accounts''), any other separate account established by Equitable in the future to support certain deferred variable annuity contracts and certificates issued by Equitable (''Future Account''), EQ Financial Consultants, Inc. (''EQFC''), and Equitable Distributors, Inc. (''EDI'') (collectively, ''Applicants'').

FILING DATE: The application was filed on October 30, 1998, and amended and restated on March 29, 1999.

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 Applicant with a copy of the request, in person or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 30, 1999, and should be accompanied by proof of service on the 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 Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.