

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23808; 812-11522]

The Gabelli Equity Trust Inc., et al.; Notice of Application

April 23, 1999.

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

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act and for an order under section 17(d) of the Act and rule 17d-1 under the Act.

APPLICANTS: The Gabelli Equity Trust Inc. (the "Trust"), the Gabelli Utility Fund (the "Utility Fund"), and Gabelli Funds, LLC ("Gabelli").

SUMMARY OF APPLICATION: Applicants seek an order to permit the Trust to transfer a portion of its assets to the Utility Fund, a newly formed, wholly-owned subsidiary that is a registered closed-end investment company and to distribute to the Trust's shareholders the shares of the Utility Fund.

FILING DATES: The application was filed on February 26, 1999, and amended on April 23, 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 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 13, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, One Corporate Center, Rye, New York 10580.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942-0634, or Michael W. Mundt, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's

Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel. no. 202-942-8090).

Applicants' Representations

1. The Trust is a non-diversified, closed-end management investment company registered under the Act. The Utility Fund was formed on February 25, 1999, and filed a notification of registration on Form N-8A on February 26, 1999, to register under the Act as a non-diversified, closed-end management investment company. The Utility Fund will file a registration statement under the Act on Form N-2 on or before May 21, 1999. Application will be made to list the Utility Fund's shares for trading on the New York Stock Exchange. Gabelli is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as the investment adviser to the Trust and the Utility Fund.

2. The Trust owns 10,000 shares of the Utility Fund's common stock. These shares were issued in respect of the Trust's contribution to the Utility Fund of \$100,000 of initial capital. The persons who currently serve as the Trust's directors are also the Utility Fund's directors, and the Trust's principal executive officers hold the same offices with the Utility Fund.

3. The Board of Directors of the Trust ("Board") has approved, subject to the requested relief and subsequent shareholder approval, the contribution of a segment of the Trust's net assets having a value of approximately \$75 million to the Utility Fund in exchange for additional shares of common stock of the Utility Fund, which together with the 10,000 shares currently held by the Trust will constitute all of the shares of common stock of the Utility Fund. It is anticipated that the contributed assets will consist largely or exclusively of cash and short-term fixed income instruments. All the shares of the common stock of the Utility Fund then will be distributed by the Trust as a dividend to its shareholders at a rate of one share of the Utility Fund common stock for every fourteen shares held of the Trust. The contribution of the Trust assets to the Utility Fund and the subsequent distribution of the Utility Fund shares to the Trust shareholders are referred to as the "Transaction."

4. The Board, including all of its directors who are not "interested persons" as defined by section 2(a)(19) of the Act (the "Disinterested Directors"), found, among other things, that the Transaction will result in the following benefits to Trust shareholders: (a) shareholders will receive shares of an investment company with a different

risk-return profile than the Trust; (b) shareholders will acquire the Utility Fund shares at a much lower cost than is typically the case for a newly-organized closed-end equity fund since there will be no underwriting discounts or commissions; and (c) shareholders will be able to seek income and capital appreciation opportunities presented by the Utility Fund market segment.

5. The Trust does not expect that it will recognize significant taxable gain on its contribution of cash and securities to the Utility Fund in exchange for shares of the Utility Fund. The Utility Fund has been advised by counsel that the distribution of shares of the Utility Fund to Trust shareholders likely will be a taxable event for Trust shareholders and, under certain circumstances, will be a taxable event for the Trust. However, the Transaction is not expected to increase significantly the total amount of taxable distributions received by the Trust's shareholders for the year in which the Transaction is consummated and is not expected to result in the recognition of significant taxable gain by the Trust. The Board, including all of the Disinterested Directors, considered the tax consequences of the Transaction and found that the benefits of the Transaction outweigh any adverse tax consequences to the Trust and its shareholders.

6. The costs of organizing the Utility Fund and effecting the distribution of the Utility Fund's shares to the Trust's shareholders, including the fees and expense of counsel and accountants and printing, listing, and registration fees, are estimated to be approximately \$330,000 and will be borne by the Trust. The Trust will bear the costs of soliciting its shareholders' approval of the Transaction and the costs incurred in connection with this application for exemptive relief. In addition, the Utility Fund will incur operating expenses on an ongoing basis, including legal, auditing, transfer agency, and custodian expenses that, when aggregated with the fees payable by the Trust for similar services after the distribution, will likely exceed the fees currently payable by the Trust for those services. The Board, including the Disinterested Directors, found that it is appropriate for the Trust to bear the Transaction's cost inasmuch as the benefits of the Transaction will be for the Trust's shareholder and because absorption of such expenses will eliminate any decrease in the net asset value of the Utility Fund's shares in comparison to the amount of the distribution, which may assist in the pricing of the Utility Fund shares on the New York Stock

Exchange. It is not expected that the Transaction will have significant effect on the annual expenses of the Trust as a percentage of its assets.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person. The Trust may be viewed as an affiliated person of the Utility Fund under section 2(a)(3) since the Trust will own 100 percent of the Utility Fund's voting securities until the consummation of the Transaction. The Utility Fund may similarly be considered an affiliated person of the Trust since 100 percent of the Utility Fund's voting securities will be owned by the Trust. The Trust and the Utility Fund also may be viewed as an affiliated persons of each other to the extent that they may be deemed to be under the common control of Gabelli and because the same persons serve as the directors and officers of both companies. As a result of the affiliation between the Trust and the Utility Fund, section 17(a) would prohibit the Transaction.

2. Applicants request an exemption pursuant to section 17(b) of the Act from the provisions of section 17(a) in order to permit the Trust to effect the Transaction. Section 17(b) authorizes the SEC to issue such an exemptive order if the SEC finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any persons concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act.

3. Applicants assert that the terms of the Transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching by any person concerned. Applicants state that the proposed sale by the Trust of a portion of its assets to the Utility Fund in exchange for the securities of the Utility Fund will be based on the fair value of those assets computed on the day of the proposed

transfer in the same manner as for purposes of the daily net asset valuation for the Trust. Applicants further state that such assets are anticipated to consist largely or exclusively of cash and short-term fixed income instruments and thus will likely pose few, if any, issues with respect to valuation. The Utility Fund stock distributed by the Trust in the Transaction will be valued based on the value of the Utility Fund's assets. "Value" for those purposes will be determined in accordance with the provisions of section 2(a)(41) of the Act and rule 2a-4 under the Act.

4. With respect to the Transaction, the Board, including a majority of the Disinterested Directors, found that the participation in the Transaction is in the best interests of the Trust and that the interests of the existing shareholders of the Trust will not be diluted as a result of the Transaction. These findings, and the basis upon which the findings were made, will be recorded fully in the minutes book of the Trust.

5. Applicants state that the Transaction will be consistent with the stated investment policies of the Trust and the Utility Fund as disclosed to shareholders. The distribution of the Utility Fund shares will not change the position of the Trust's shareholders with respect to the underlying investments that they then own. A proxy statement/prospectus of the Trust and the Utility Fund is being used to solicit the approval of the Trust's shareholders of the Transaction following the issuance of the exemptive relief. The Trust's shareholders will have the opportunity to vote on the Transaction after having received disclosure concerning the Transaction.

6. Applicants also seek an order under section 17(d) of the Act and rule 17d-1 under the Act. Section 17(d) and rule 17d-1 prohibit affiliated persons from participating in joint arrangements with a registered investment company unless authorized by the SEC. In passing on applications for these orders, rule 17d-1 provides that the SEC will consider whether the participation of the investment company is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of the other participants. Applicants request an order pursuant to rule 17d-1 to the extent that the participation of the applicants in the Transaction may be deemed to constitute a prohibited joint transaction.

7. Applicants state that the Transaction will not place any of the Trust, the Utility Fund, or existing

shareholders of the Trust in a position less advantageous than that of any other of such persons. As noted, the value of the Trust's assets transferred to the Utility Fund (and the shares received in return) will be based on their fair value as computed on the day of the transfer in accordance with the requirements of the Act. The shares of the Utility Fund will be distributed as a dividend to the shareholders leaving the shareholders in the same investment posture immediately following the Transaction as before, subject only to changes in market price of the underlying assets subsequent to the Transaction.

8. Applicants assert that the Transaction has been proposed in order to benefit the shareholders of the Trust as well as the Utility Fund, and neither Gabelli nor any other affiliated person of the Trust or the Utility Fund will receive fees solely as a result of the Transaction. The fee indirectly payable to Gabelli by the Utility Fund's shareholders will be the same as the fee currently indirectly payable to Gabelli by the Trust's shareholders. In addition, by creating the Utility Fund through the Transaction, the Trust is effectively enabling its shareholders to receive securities without the costs associated with a public offering.

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

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23807; 812-11496]

Nations Fund Trust, et al.; Notice of Application

April 22, 1999.

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

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 ("Act") for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION:

Applicants request an order to permit certain series of Nations Fund Trust ("NFT"), Nations Fund, Inc. ("NFI"), Nations Institutional Reserves ("NIR") and Nations Master Investment Trust ("NMIT") to acquire all of the assets and liabilities of all of the series of Pacific Horizon Funds, Inc. ("Pacific Horizon") and Master Investment Trust, Series ("MIT").