

control of the license, unless the Commission shall give its consent in writing. Under 10 CFR 30.34, 40.41, and 70.32, no byproduct, source, or special nuclear material license shall be transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended, which require, *inter alia*, Commission consent. Upon review of the information in the application by Boston Edison and Entergy Nuclear, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Entergy Nuclear is qualified to hold the licenses, and that the transfer of the licenses to Entergy Nuclear is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a Safety Evaluation dated April 29, 1999.

### III

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 30.34, 40.41, 50.80, and 70.32, *It is hereby ordered* that the Commission consents to the transfer of the licenses as described herein to Entergy Nuclear, subject to the following conditions:

(1) For purposes of ensuring public health and safety, Entergy Nuclear shall provide decommissioning funding assurance of no less than \$396 million, after payment of any taxes, in the decommissioning trust fund for Pilgrim upon the transfer of the Pilgrim licenses to Entergy Nuclear.

(2) Entergy Nuclear shall maintain the decommissioning trust funds in accordance with the application, this Order, and the related Safety Evaluation dated April 29, 1999, supporting this Order.

(3) Entergy Nuclear shall provide a Provisional Trust fund in the amount of \$70 million, after payment of any taxes, in the Provisional Trust for Pilgrim upon the transfer of the Pilgrim licenses to Entergy Nuclear. The Provisional Trust shall be established and maintained in conformance with the representations made in the application.

(4) The Decommissioning Trust agreement(s) shall be in a form which is acceptable to the NRC and shall provide, in addition to any other clauses, that:

(a) Investments in the securities or other obligations of Entergy Nuclear, Entergy Corporation, their affiliates, subsidiaries or associates, or their successors or assigns shall be prohibited. In addition, except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants is prohibited.

(b) The Director, Office of Nuclear Reactor Regulation, shall be given 30 days prior written notice of any material amendment to the trust agreement(s).

(5) Entergy Nuclear shall have access to a contingency fund of not less than fifty million dollars (\$50m) for payment, if needed, of Pilgrim operating and maintenance expenses, the cost to transition to decommissioning status in the event of a decision to permanently shut down the unit, and decommissioning costs. Entergy Nuclear will take all necessary steps to ensure that access to these funds will remain available until the full amount has been exhausted for the purposes described above. Entergy Nuclear shall inform the Director, Office of Nuclear Reactor Regulation, in writing, at such time that it utilizes any of these contingency funds. This provision does not affect the NRC's authority to assure that adequate funds will remain available in the plant's separate decommissioning trust fund(s), which Entergy Nuclear shall maintain in accordance with NRC regulations. Once the plant has been placed in a safe-shutdown condition following a decision to decommission, Entergy Nuclear will use any remainder of the \$50m contingency fund that has not been used to safely operate and maintain the plant to support the safe and prompt decommissioning of the plant, to the extent such funds are needed for safe and prompt decommissioning.

(6) Entergy Nuclear shall, prior to completion of the sale and transfer of Pilgrim to it, provide the Director, Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Entergy Nuclear has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(7) After receipt of all required regulatory approvals of the transfer of Pilgrim, Boston Edison and Entergy Nuclear shall inform the Director, Office of Nuclear Reactor Regulation, in writing of the date of the closing of the sale and transfer of Pilgrim no later than one business day prior to the date of closing. Should the transfer of the licenses not be completed by December 31, 1999, this Order shall become null and void, provided, however, on written application and for good cause shown, such date may in writing be extended.

*It is further ordered* that, consistent with 10 CFR 2.1315(b), license amendments that makes changes, as indicated in Enclosure 1 to this Order, to conform the licenses to reflect their transfer are approved. Such amendments shall be issued and made effective at the time the proposed license transfers are completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 21, 1998, and application supplements dated January 28, February 18, April 2, April 15, and April 16, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Plymouth Public Library, 132 South Street, Plymouth, Massachusetts 02360.

Dated at Rockville, Maryland, this 29th day of April 1999.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 99-11402 Filed 5-5-99; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23817; 812-11530]

### Bankers Trust Company, et al.; Notice of Application

April 29, 1999.

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

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from section 15(a) of the Act.

**SUMMARY OF THE APPLICATION:** The requested order would permit the implementation, without prior shareholder approval, of new investment advisory and subadvisory agreements ("New Advisory Agreements") in connection with the merger of Bankers Trust Corporation ("BT Corp") and Deutsche Bank AG ("Deutsche Bank"). The order would cover a period of up to 150 days following the later of the date the merger is consummated or the date the requested order is issued (but in no event later than November 30, 1999) ("Interim Period").

**APPLICANTS:** Bankers Trust Company ("BT"), Investment Company Capital Corp. ("ICCC"), and Alex. Brown Investment Management ("ABIM") (collectively, "BT Advisers"); Brown Investment Advisory & Trust Company ("Brown Trust"); LaSalle Investment Management (Securities), L.P. ("LaSalle"); and The Glenmede Trust Company ("Glenmede") (collectively with the BT Advisers, Brown Trust and LaSalle, "Advisers").

**FILING DATES:** The application was filed on March 5, 1999 and amended on April 28, 1999.

**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 24, 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 may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Applicants, c/o Willkie Farr & Gallagher, Attn: Burton M. Leibert, Esq. or Jon S. Rand, Esq., 787 Seventh Avenue, New York, NY 10019-6099.

**FOR FURTHER INFORMATION CONTACT:** Rachel H. Graham, Senior Counsel, at (202) 942-0583, or Nadya B. Roytblat, 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 Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549-0102 (telephone (202) 942-8090).

### Applicants' Representations

1. BT, a New York banking corporation, serves as investment adviser or subadviser to various open-end management investment companies registered under the Act ("BT Advised Funds") pursuant to separate investment advisory or subadvisory agreements ("Existing BT Agreements").<sup>1</sup> ICCC, a Maryland corporation and wholly-owned subsidiary of BT Alex. Brown Incorporated, serves as investment adviser to various open-end management investment companies registered under the Act ("ICCC Funds") and, together with the BT Advised Funds, "Funds") pursuant to separate investment advisory agreements ("Existing ICCC Agreements").<sup>2</sup>

<sup>1</sup> BT serves as investment adviser for the following BT Advised Funds: BT Insurance Funds Trust, Cash Management Portfolio, Treasury Money Portfolio, Tax Free Money Portfolio, New York Tax Free Money Portfolio, International Equity Portfolio, Equity 500 Index Portfolio, Asset Management Portfolio, Capital Appreciation Portfolio, Intermediate Tax Free Portfolio, BT Investment Portfolios, Quantitative Equity Fund (a series of BT Investment Funds), Institutional Daily Assets Funds and Institutional Treasury Assets Fund (each a series of BT Institutional Funds), and BT Investment Equity Appreciation Fund (a series of BT Pyramid Mutual Funds). BT serves as investment subadviser for the following BT Advised Funds: AARP U.S. Stock Index Fund, a series of AARP Growth Trust; three series of American General Series Portfolio Company (Mid Cap Index Fund, Stock Index Fund, and Small Cap Index Fund); four series of American General Series Portfolio Company 2 (Small Cap "Value" Index Fund, Stock Index Fund, Midcap Index Fund, and Small Cap Index Fund); Small Cap Value Index Fund, a series of American General Series Portfolio Company 3; AST Bankers Trust Enhanced 500 Portfolio, a series of American Skandia Trust; three series of EQ Advisors Trust (BT Equity 500 Index Portfolio, BT Small Company Index Portfolio, and BT International Equity Index Portfolio); Spartan Market Index Fund, a series of Fidelity Commonwealth Trust; four series of Fidelity Concord Street Trust (Spartan Extended Market Index Fund, Spartan Total Market Index Fund, Spartan International Market Index Fund, and Spartan U.S. Equity Index Fund); Index 500 Portfolio, a series of Fidelity Variable Insurance Products Fund II; two series of Pacific Select Fund (Equity Index Portfolio and Small-Cap Index Portfolio); two series of SBL Fund (Series H and Series I); two series of Security Index Fund (International Series and Enhanced Index Series); International Equity Portfolio, a series of Style Select Series Inc.; and eight series of Seasons Series Trust (Large-Cap Growth Portfolio, Large-Cap Composite Portfolio, Large-Cap Value Portfolio, Mid-Cap Growth Portfolio, Mid-Cap Value Portfolio, Small Cap Portfolio, International Equity Portfolio, and Diversified Fixed Income Portfolio).

<sup>2</sup> The ICCC Funds are: Tax-Free Series, Prime Series, and Treasury Series (each a series of BT

2. ABIM, a Maryland limited partnership, serves as investment subadviser to three ICCC Funds. Brown Trust, a Maryland trust company, serves as investment subadviser to two ICCC Funds. LaSalle, a Maryland limited partnership, and Glenmede, a Pennsylvania limited purpose trust company, each serve as investment subadviser to one ICCC Fund. Each of ABIM, Brown Trust, LaSalle, and Glenmede serves in this capacity pursuant to separate investment subadvisory agreements with ICCC (collectively, "Existing Subadvisory Agreements," and together with the Existing BT Agreements and the Existing ICCC Agreements, "Existing Advisory Agreements").

3. BT and ICCC are wholly-owned subsidiaries of BT Corp, a registered bank holding company that also indirectly controls ABIM. BT Corp is not affiliated with Brown Trust, LaSalle, or Glenmede (each a "Non-BT Subadviser").

4. BT, Brown Trust, and Glenmede are exempt from registration as investment advisers under the Investment Advisers Act of 1940 ("Advisers Act") pursuant to section 202(a)(11)(A) of the Advisers Act. ICCC, ABIM, and LaSalle are registered as investment advisers under the Advisers Act.

5. On November 30, 1998, BT Corp and Deutsche Bank entered into an agreement pursuant to which Circle Acquisition Corporation, a wholly-owned subsidiary of Deutsche Bank, will merge with and into BT Corp, with BT Corp continuing as the surviving entity (the "Merger"). Applicants expect consummation of the Merger on or about May 31, 1999.

6. Applicants state that the Merger may result in the assignment, and thus termination, of the Existing Advisory Agreements under the terms of those agreements and the Act. Applicants request an exemption to permit (i) the implementation of the New Advisory Agreements without prior shareholder approval, and (ii) the Advisers to receive all advisory fees earned under the New Advisory Agreements during the Interim Period, subject to approval of the New Advisory Agreements by the Funds' shareholders. The requested exemption would cover the Interim Period of not more than 150 days beginning on the later of the date the

Alex. Brown Cash Reserve Fund, Inc.; Flag Investors Communications Fund, Inc.; Flag Investors Emerging Growth Fund, Inc.; Flag Investors Short-Intermediate Income Fund, Inc.; Flag Investors Value Builder Fund, Inc.; Flag Investors Real Estate Securities Fund, Inc.; Flag Investors Equity Partners Fund, Inc.; and Flag Investors International Fund, Inc.

merger is consummated ("Closing Date") or the date the requested order is issued and continuing until the New Advisory Agreements are approved or disapproved by the Funds' shareholders, but in no event later than November 30, 1999.<sup>3</sup> Applicants state that the New Advisory Agreements will contain substantially the same terms and conditions as the Existing Advisory Agreements, except for the dates of commencement and termination.

7. Applicants state that, on March 11, 1999, six days after applicants filed this application with the Commission, the U.S. Attorney for the Southern District of New York filed a three-count felony information ("Information") in the United States District Court for the Southern District of New York. The Information charges BT with making false entries on its books and records as a result of the conduct of certain employees in BT's processing services businesses in 1994-1996.<sup>4</sup> On March 11, 1999, BT pleaded guilty to the charges in the Information pursuant to a written cooperation and plea agreement ("Cooperation and Plea Agreement").<sup>5</sup>

8. On March 12, 1999, BT filed an application pursuant to section 9(c) of the Act for a temporary order exempting it and entities of which it is or becomes an affiliated person ("Covered Entities") from the provisions of section 9(a) of the Act.<sup>6</sup> On March 12, 1999, BT and the

Covered Entities received a temporary conditional order from the Commission exempting them from section 9(a) of the Act with respect to the Cooperation and Plea Agreement ("Temporary Order") (Investment Company Act Release No. 23737). The Temporary Order stated that it would expire when the Commission took final action on an application for a permanent order or, if earlier, May 11, 1999. On March 25, 1999, the BT Advisers filed an application under section 9(c) for (i) a permanent order exempting the Covered Entities from section 9(a) with respect to the Cooperation and Plea Agreement and (ii) an extension of the Temporary Order if the requested permanent order is not granted before the Temporary Order expires.

9. Applicants currently intend that the board of directors ("Board") of each Fund will meet prior to the Closing Date to consider approval of the New Advisory Agreements and submission of the New Advisory Agreements to the shareholders for their approval, in accordance with section 15(c) of the Act.<sup>7</sup> Applicants state that each Board will evaluate whether the terms of the relevant New Advisory Agreement(s) are in the best interests of the Fund and its shareholders. Applicants state that a majority of the Boards already have convened and approved the New Advisory Agreements applicable to their Funds. Applicants represent that any Board that met prior to March 11, 1999 subsequently was apprised of the Cooperation and Plea Agreement and BT's requests for relief under section 9(c). Applicants also represent that all other Boards have been or will be apprised of the Cooperation and Plea Agreement and BT's requests for relief under section 9(c) before voting on the New Advisory Agreements applicable to their Funds. Applicants further represent that each Board has been or will be provided with all information reasonably necessary to evaluate whether retaining the relevant BT Adviser is in the best interests of the Fund and its shareholders.

10. Advisory fees earned by the Advisers under the New Advisory Agreements during the Interim Period will be maintained in interest-bearing escrow accounts with one or more financial institutions unaffiliated with the Advisers (each an "Escrow Agent").<sup>8</sup>

The applicable Escrow Agent will release the amounts held in the escrow accounts (including any interest earned): (i) to the applicable Adviser upon approval of each New Advisory Agreement by the relevant Fund's shareholders; or (ii) to the Fund, if the Interim Period has ended and the Fund's shareholders have not approved the New Advisory Agreement.<sup>9</sup> Before any such release is made, the Board of the applicable Fund will be notified.

11. Proxy materials for the shareholders meeting of each Fund are expected to be mailed beginning in or about May, 1999. The proxy materials will include disclosure regarding the Corporation and Plea Agreement, the Temporary Order, and the BT Advisers' request for a permanent order of exemption from section 9(a). Applicants represent that if the Commission decides not to extend the Temporary Order or denies the BT Advisers' request for a permanent section 9(c) order prior to the time that the proxy materials are mailed, solicitation of shareholder votes with respect to the New Advisory Agreements will be limited only to approval of the release of amounts payable to the BT Advisers that were escrowed up to the date on which the Temporary Order or an extension of the Temporary Order expires if the permanent order has not been granted. Applicants further represent that if the Commission decides not to extend the Temporary Order or denies the BT Advisers' request for a permanent section 9(c) order while the proxies are outstanding, the BT Advisers will mail supplemental proxy materials with respect to the BT Advisers' New Advisory Agreements soliciting shareholder approval only for the release of amounts payable to the BT Advisers that were escrowed up to the date on which the Temporary Order or an extension of the Temporary Order expires if the permanent order has not been granted. In either instance, the ICCF Funds subadvised by the Non-BT Subadvisers will be permitted to solicit shareholder approval of the release of all escrowed fees payable to the Non-BT Subadvisers under the New Advisory Agreements.

The portion of such revenues owned to the applicable BT Advised Funds, as opposed to BT, will not be placed into escrow.

<sup>9</sup> As described in representation 11 in this notice, if the Commission declines to extend the Temporary Order or denies the BT Advisers' request for a permanent section 9(c) order, the BT Advisers may only receive the fees payable to them that were escrowed up to the date on which the Temporary Order or an extension of the Temporary Order expires if the permanent order has not been granted.

<sup>3</sup> Applicants state that if the Closing Date precedes the issuance of the requested order, they will serve after the Closing Date and prior to the issuance of the order in a manner consistent with their fiduciary duty to provide investment advisory and subadvisory services to the Funds even though approval of the New Advisory Agreements has not yet been secured from the Funds' shareholders. Applicants submit that, in such an event, they will be entitled to receive, from the Closing Date until the issuance of the order, no more than their actual out-of-pocket costs for providing investment advisory and subadvisory services to the Funds.

<sup>4</sup> The conduct involved the transfer to reserve accounts and to income of aged credit items that should have been paid to customers, other third parties, or state abandoned property authorities.

<sup>5</sup> As part of the Cooperation and Plea Agreement, BT agreed to pay a \$60 million fine and to place that amount in escrow pending sentencing. As a result of the matters underlying the Cooperation and Plea Agreement, BT also has agreed to pay a \$3.5 million fine to the State of New York.

<sup>6</sup> Section 9(a), in relevant part, prohibits a person and any company of which the person is an affiliated person from serving or acting as an investment adviser, principal underwriter, or depositor for any registered investment company if the person has been convicted of any felony arising out of the person's conduct as, among other things, an underwriter, broker, dealer, investment adviser, or transfer agent. Section 9(c) of the Act provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to the applicant, are unduly or disproportionately severe or that the applicant's conduct has been such as not to make it against the public interest or the protection of investors to grant the application.

<sup>7</sup> Applicants acknowledge that, to the extent that a Fund's Board cannot meet prior to the Closing Date, the applicable Adviser(s) may not rely upon the exemptive relief requested in this application.

<sup>8</sup> In certain cases, the fees payable to BT under the New Advisory Agreements include a portion of revenues earned from securities lending activities performed on behalf of certain BT Advised Funds.

### Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to serve as an investment adviser to a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires the written contract to provide for its automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Applicants state that the Merger may result in an assignment of the Existing Advisory Agreements and that such agreements will terminate according to their terms.

2. Rule 15a-4 under the Act provides, in relevant part, that if an investment advisory contract with a registered investment company is terminated due to its assignment, an investment adviser may act as such for the company for 120 days under a written contract that has not been approved by the company's shareholders, provided that: (i) The new contract is approved by that company's board of directors, including a majority of the non-interested directors; (ii) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (iii) neither the adviser nor any controlling person of the adviser "directly or indirectly receive[s] money or other benefit" in connection with the assignment. Applicants state that they may not rely on rule 15a-4 because BT Corp will receive benefits in connection with the Merger.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act or any rule thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with both the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard.

4. Applicants state that the terms and timing of the Merger were determined in response to a number of factors beyond the scope of the Act and substantially unrelated to the Funds. Applicants assert that there is insufficient time to obtain shareholder approval of the New

Advisory Agreements before the Merger is consummated. Applicants further assert that the requested relief would prevent any disruption in the delivery of investment advisory services to the Funds during the period after the Merger.

5. Applicants represent that, under the New Advisory Agreements during the Interim Period, the Funds will receive the same scope and quality of investment advisory services, provided in the same manner, as they receive under the Existing Advisory Agreements. Applicants state that, in the event of any material change in investment management personnel providing services to the Funds, the applicable Adviser will apprise and consult with the relevant Fund's Board to ensure that the Board, including a majority of the non-interested directors, is satisfied that the services provided by the Adviser will not be diminished in scope and quality. Applicants note that the fees payable to the Advisers under the New Advisory Agreements during the Interim Period will be at the same rate as the fees paid under the Existing Advisory Agreements.

### Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The New Advisory Agreements will contain substantially the same terms and conditions as the Existing Advisory Agreements, except for the date of commencement and termination.

2. The portion of the advisory fees earned by the Advisers during the Interim Period will be maintained in interest-bearing escrow accounts, and amounts in the accounts chargeable to the Funds (including interest earned on such amounts) will be paid to the applicable Adviser only upon approval of each New Advisory Agreement by the relevant Fund's shareholders or, in the absence of such approval, to the Fund.<sup>10</sup>

3. Each fund will schedule a meeting of its shareholders to vote on approval of the New Advisory Agreements, which will be held within 150 days following the commencement of the Interim Period (but in no event later than November 30, 1999).

4. The BT Advisers, or entities controlling them, will pay the costs of

<sup>10</sup> As described in representation 11 in this notice, if the Commission declines to extend the Temporary Order or denies the BT Advisers' request for a permanent section 9(c) order, the BT Advisers may only receive the fees payable to them that were escrowed up to the date on which the Temporary Order or an extension of the Temporary Order expires if the permanent order has not been granted.

preparing and filing the application and the costs relating to the solicitation and approval of Fund Shareholders of the New Advisory Agreements necessitated by the Merger.

5. BT Corp, Deutsche Bank, and applicants will take all appropriate actions to ensure that the scope and quality of investment advisory and other services to be provided to the Funds by the advisers during the Interim Period will be least equivalent, in the judgment of the Boards, including a majority of the non-interested directors, to the scope and quality of services currently provided under the Existing Advisory Agreements. In the event of any material change in investment management personnel providing advisory services pursuant to the New Advisory Agreements, the applicable Adviser will apprise and consult with the relevant Fund's Board to ensure that the Board, including a majority of the non-interested directors, is satisfied that the services provided by the Adviser during the Interim Period will not be diminished in scope or quality.

6. The application and any exemption issued will be without prejudice to, and will not limit the Commission's rights in any manner with respect to, any Commission investigations or enforcement actions pursuant to the federal securities laws, or the consideration by the Commission of any application for exemption from statutory requirements, including without limitation, the consideration of a request for a permanent exemption pursuant to sections 9(c) of the Act, or the revocation, removal, or extension of the Temporary Order.

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

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 99-11363 Filed 5-5-99; 8:45 am]

BILLING CODE 8010-01-M

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41343; File No. SR-NASD-99-16]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. and Amendment No. 1 Thereto Relating to Agency Quotations and Access Fees**

April 28, 1999.

On April 15, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its