

investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit the New Asia Fund to sell its Shares to the Fund.²

10. Applicants believe that the Proposed Investment satisfies the standards of sections 6(c) and 17(b). The Fund will purchase Shares of the New Asia Fund at the same purchase price and on the same basis as all other purchasers of Shares. In addition, the Proposed Investment is consistent with the Fund's investment objectives and policies as set forth in the Fund's registration statement. Applicants also believe that the Proposed Investment is consistent with the general purposes of the Act.

Section 17(d) and Rule 17d-1

11. Section 17(d) prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of SEC rules and regulations. Rule 17d-1 provides that an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, shall not participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the SEC has issued an order approving the arrangement. The Proposed Investment may constitute a joint enterprise or other joint arrangement within the meaning of rule 17d-1.

12. Applicants believe that the Proposed Investment satisfies the rule 17d-1 standards. Applicants represent that the Fund's board approved the investment by the Fund after carefully considering all relevant factors. All purchasers of the New Asia Fund Shares will receive equal treatment, and no one participant will be favored over any other in any respect.

Applicants' Conditions

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

1. The Manager will waive its management fee (which includes

administrative fees) with respect to the Fund's net assets represented by the Fund's Proposed Investment in the New Asia Fund. To effectuate this waiver, Fund assets represented by the Shares purchased by the Fund under the Proposed Investment will be excluded from the net assets of the Fund in the calculation of the Manager's fee. As such waiver relates to the Manager's fee schedule, any Fund assets invested in the New Asia Fund will be excluded from the Fund's assets before any fee calculation is made; thus, the Fund's aggregate net assets will be adjusted by the amount invested in the New Asia Fund prior to determining the fee based on the Manager's fee schedule (the amount waived pursuant to this procedure shall be defined as the "Reduction Amount" for purposes of condition 4 below).

2. Any fees payable by the Fund to the Manager so excluded in connection with the Proposed Investment, as described herein, will be excluded for all time, and will not be subject to recoupment by the Manager or by any other investment adviser at any other time.

3. The Fund's Proposed Investment in the Shares will be limited to 1% of the Fund's total assets, taken at the time of the Fund's subscription.

4. If the Manager waives any portion of its fees or bears any portion of its expenses in respect of the Fund (an "Expense Waiver"), the adjusted fees for the Fund (gross fees minus Expense Waiver) will be calculated without reference to the Reduction Amount. Adjusted fees then will be reduced by the Reduction Amount. If the Reduction Amount exceeds adjusted fees, the Manager will reimburse the Fund in an amount equal to such excess.

5. The Shares owned by the Fund will be voted by an independent director designated to act in such capacity.

6. Capital Group, CIEMF, and any other Capital Group affiliates that may purchase Shares of the New Asia Fund in the future will vote their Shares in proportion to the vote of all other shareholders of the New Asia Fund.

7. Shares of the New Asia Fund will not be subject to a sales load, redemption fee, or a distribution fee.

8. Investment in Shares will be in accordance with the Fund's investment restrictions and will be consistent with its policies as recited in its registration statement and prospectus.

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

Margaret H. McFarland,
Deputy Secretarys.

[FR Doc. 96-9940 Filed 4-22-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21899; 812-9948]

Glickenhau & Co., et al.; Notice of Application

April 16, 1996.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Glickenhau & Co. ("Glickenhau") and Lebenthal & Co., Inc. ("Lebenthal") (collectively, the "Sponsors"); Empire State Municipal Exempt Trust ("Empire Trust") and Glickenhau Value Portfolios ("Equity Trust").

RELEVANT ACT SECTIONS: Order requested under sections 11(a) and 11(c).

SUMMARY OF APPLICATION: Applicants request an order to permit certain offers of exchange between unit investment trusts.

FILING DATES: The application was filed on January 4, 1996 and amended on March 21, 1996.

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, 1996, 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 5th Street NW, Washington, DC 20549. Applicants: Glickenhau, 6 East 43rd Street, New York, New York 10017; Lebenthal, 120 Broadway, New York, New York 10271.

FOR FURTHER INFORMATION CONTACT: David W. Grim Staff Attorney (202) 942-0571, or David M. Goldberg, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

²Section 17(b) applies to specific proposed transactions and not to an ongoing series of future transactions. See *Keystone Custodian Funds*, 21 S.E.C. 295, 298-299 (1945). Section 6(c) can be used to grant relief from section 17(a) for an ongoing series of future transactions.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Glickenhau and Lebenthal are the sponsors for successive series of the Empire Trust, and Glickenhau is the sponsor for successive series of the Equity Trust, each series being a separate unit investment trust registered under the Securities Act of 1933 and the Act. Applicants request that any relief granted pursuant to the application also apply to future series of the Empire Trust and the Equity Trust and subsequently issued unit investment trusts sponsored by either or both of the Sponsors or a sponsor controlled by or under common control with the Sponsors and registered (or to be registered) under the Securities Act of 1933 and the Act (collectively with the Empire Trust and the Equity Trust, the "Trusts").

2. The sales charge for initial investment in the Empire Trust is 4.9% of the public offering price, and the sales charge for initial investment in the Equity Trust is 3.9% of the public offering price. Both sales charges are subject to discounts for certain volume transactions. The Sponsors intend to maintain a secondary market for the units of each series of the Empire Trust and the Equity Trust, although they are not obligated to do so. The maximum sales charge upon units sold in the secondary market is 5.9% for the Empire Trust and 3.9% for the Equity Trust.

3. Applicants propose to offer to purchasers of units of any of the Trusts ("Unitholders") the ability to exchange any or all of their units for units in one or more available series of the Trusts (the "Exchange Trusts") at a reduced sales charge (the "Exchange Privilege"). Applicants also propose to offer to Unitholders the ability to roll over any or all of their units in a series which is terminating for units of one or more new series of the Trusts (the "Rollover Trusts") at a reduced sales charge (the "Rollover Privilege").

4. A Unitholder must notify the Sponsors of his or her desire to exercise his or her Exchange Privilege. Exercise of the Exchange Privilege is subject to the following conditions: (a) the Sponsors must be maintaining a secondary market in units of the Trust held by the Unitholder and units of the available Exchange Trust, (b) at the time of the Unitholder's election to participate in the Exchange Privilege, there must be units of the Exchange

Trust available for sale, either under the initial primary distribution or in the Sponsors' secondary market, and (c) exchanges will be effected in whole units only. Any excess proceeds from the units surrendered for exchange will be remitted to the Unitholder; the Unitholder will not be permitted to advance any new funds in order to purchase units of any of the Exchange Trusts.

5. Except for Unitholders who wish to exercise the Exchange Privilege within the first five months of their purchase of units of the Trust, an investor who purchases units under the Exchange Privilege will pay a lower aggregate sales charge than that which would be paid for the units by a new investor. For Unitholders who wish to exercise the Exchange Privilege within the first five months of their purchase of units of an Exchange Trust will be greater of (a) the reduced sales charge or (b) an amount which, when coupled with the sales charge paid by the Unitholder upon his original purchase of units of the Trust, would equal the sales charge applicable to the direct purchase of units of an Exchange Trust, determined as of the date of the exchange.

6. A Unitholder must notify the Sponsors of his or her desire to exercise his or her Rollover Privilege. Exercise of the Rollover Privilege is subject to the following conditions: (a) the Sponsors must be maintaining a secondary market in units of the available Rollover Trust, and (b) at the time of the Unitholders' election to participate in the Rollover Privilege there must be units of the Rollover Trust available for sale, either under the initial primary distribution or in the Sponsors' secondary market. Any excess proceeds from the units surrendered for exchange will be remitted to the Unitholder.

Applicants' Legal Analysis

1. Section 11(a) requires SEC approval of an offer to exchange securities by a registered open-end investment company to the holder of a security of such company or of any other open-end investment company if the exchange occurs on any basis other than the relative net asset values of the securities to be exchanged. Section 11(c) makes section 11(a) applicable to any type of exchange offer of securities of registered unit investment trusts for the securities of any other investment company, irrespective of the basis of exchange.

2. Applicants represent that Unitholders will not be induced or encouraged to participate in the Exchange or rollover Privilege through an active advertising or sales campaign. The Sponsors state that they recognize

their responsibility to their customers not to generate excessive commissions through churning and represent that the sales charge collected will not be a significant economic incentive to salesmen to promote inappropriately the Exchange or Rollover Privilege. Applicants further believe that the Exchange and Rollover Privileges are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

If the requested order is granted, applicants agree to the following conditions:

1. The prospectus for each series and any sales literature or advertisement that mentions the existence of the Exchange Privilege or the Rollover Privilege will disclose that the Exchange and the Rollover Privilege are subject to termination and that their terms are subject to change.

2. Whenever the Exchange Privilege or the Rollover Privilege is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that:

a. No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new series eligible for the Exchange Privilege or the Rollover Privilege, or to delete a series which has terminated; and

b. No notice need be given if, under extraordinary circumstances, either

i. There is a suspension of the redemption of units of an Exchange Trust or a Rollover Trust under section 22(e) of the Act and the rules and regulations thereunder, or

ii. An Exchange Trust or a Rollover Trust temporarily delays or ceases the sale of its units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies and restrictions.

3. An investor who purchases units under the Exchange or Rollover Privilege will pay a lower aggregate sales charge than that which would be paid for the units by a new investor.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-9865 Filed 4-22-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37122; File No. SR-Amex-96-12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Listing and Trading of Warrants Based on the Selected Tech Stock Index

April 17, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 9, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex, pursuant to Rule 19b-4 of the Act, proposes to approve for listing and trading, under Section 106 of the Amex *Company Guide*, index warrants based on the Selected Tech Stock Index ("Index"), a price-weighted, narrow-based index developed by an issuer and comprised of 24 technology stocks which are traded on the Amex, the New York Stock Exchange, Inc. ("NYSE"), or through the facilities of the National Association of Securities Dealers Automated Quotation system and are reported national market system securities ("Nasdaq/NMS").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth

in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 106 (Currency and Index Warrants) of the Amex *Company Guide*, the Exchange may approve for listing index warrants based on foreign and domestic market indices. While the Exchange currently lists and trades warrants on a number of foreign market indices and broad-based domestic market indices, it now proposes to list and trade a warrant based on a narrow-based domestic market index. The listing and trading of warrants on the Selected Tech Stock Index will comply in all respects with Exchange Rules 1100 through 1110 for the trading of stock index and currency warrants.

Warrant issues on the Index will conform to the listing guidelines under Section 106, which provide, among other things, that: (1) The issuer shall have tangible net worth in excess of \$250,000,000 and otherwise substantially exceed size and earnings requirements in Section 101(A) of the *Company Guide* or meet the alternate guideline in paragraph (a); (2) the term of the warrants shall be for a period ranging from one to three years from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants, together with a minimum of 400 public holders, and have an aggregate market value of \$4,000,000.

Index warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless. In addition, the Amex, prior to the commencement of trading, will distribute a circular to its membership

calling attention to specific risks associated with warrants on the Index.

The Amex is proposing to list index warrants based on the Selected Tech Stock Index, a price-weighted index developed by an issuer and representing a narrow-based portfolio of large, actively-traded technology stocks.³ The total market capitalization of the Index was \$329,094,000,000 on April 3, 1996. The median capitalization of the components in the Index on that date was \$3.8 billion, and the average market capitalization of these companies was \$13.71 billion. The individual market capitalization of the companies ranged from \$594 million to \$68.1 billion. Average monthly trading volume in the Index stocks ranged from approximately 4.4 million shares to approximately 229.6 million shares during the six-month period from October 1995 through March 1996. The Exchange will monitor the components in the basket on a monthly basis and will advise the Commission whenever less than 75% of those components are eligible for standardized options trading. Currently, 100% of the components are eligible for standardized options trading. The Selected Tech Stock Index shall be used as the basis for only one index warrant to be listed and traded on the Exchange. If the Exchange wishes to list and trade other products based on the Selected Tech Stock Index, including other index warrants, the Exchange shall advise the Commission to determine whether an additional filing pursuant to Rule 19b-4 of the Act is necessary or appropriate.

The Index is price-weighted; its value corresponds to the sum of the prices of one share of each of the component stocks, reduced by a divisor. The Index divisor will be determined to yield the benchmark value of 100.00 on the date the warrant is priced for initial offering to the public. Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

The Index will be monitored daily for certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event which may require a divisor adjustment to maintain

³The Commission notes that a list of the component securities and their respective weights in the Index were attached to the proposed rule filing as Exhibit A, and are available for examination at the Amex or at the Commission as specified in Item IV.

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4 (1994).