For the U.S. Nuclear Regulatory Commission.

Michael J. Bell,

Acting Chief, Performance Assessment and High-Level Waste Integration Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

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PANAMA CANAL COMMISSION

Revision of a Currently Approved Collection of Information

AGENCY: Panama Canal Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 109 Stat. 163), this notice announces the Panama Canal Commission (PCC) is planning to submit to the Office of Management and Budget a Paperwork Reduction Act Submission (83-I) for a revision of a currently approved collection of information contained in Subchapter C (Shipping and Navigation) of Chapter I, Title 35, Code of Federal Regulations (CFR), OMB No. 3207–0001.

DATES: Written comments on this proposed action regarding the collection of information must be submitted by July 28, 1997.

ADDRESSES: Address all comments concerning this notice to Edward H. Clarke, Desk Officer for Panama Canal Commission, Office of Information and Regulatory Affairs, Room 10202, New Executive Office Building, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Ruth Huff, Office of the Secretary, Panama Canal Commission, 202–634–6441.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. Collection of information is defined in 44 U.S.C, 3502(3) and 5 CFR 1320.3(c). Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires Federal agencies to provide a 60-day notice in the **Federal Register**, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, by soliciting comments to: (a) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the proposed collection of information; enhance the quality, utility, and clarity of the information to be collected; and (c) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Title: Subchapter C (Shipping and Navigation) of Chapter I, 35 CFR.

Type of Request: Revision of a currently approved collection.

Background: Article III of the Panama Canal Treaty of 1977 and section 1101 of its implementing legislation, Public Law 96–70, 93 Stat. 456, vest in the Panama Canal Commission the responsibility and authority to maintain and operate the Panama Canal. Section 1801 of Public Law 96–70, codified at 22 U.S.C. 3811, explicitly authorizes the Commission to promulgate regulations governing navigation of the waters of the Panama Canal. The information required by various sections of Subchapter C (Shipping and Navigation) of Title 35 of the Code of Federal Regulations, and obtained through the use of the subject forms, is essential for the Commission to carry out its mission in a safe and efficient manner.

Abstract: On December 24, 1981, OMB approved a collection of information proposal submitted by the Panama Canal Commission in conjunction with a revision of its navigation regulations (35 CFR Chapter I, Subchapter C), and assigned this collection OMB Number 3207–0001 with an expiration date of December 31, 1984. Prior to the expiration of the collection, PCC requested another extension and received OMB approval through March 31, 1988. PCC continued requesting approval in subsequent expiration years and received extensions through August 31, 1991, September 30, 1994 and September 30, 1997. The forms required by those regulations, which make up the collection of information are used to collect, from vessels arriving in the Panama Canal waters, information required for assuring the vessels are in compliance with Panama Canal Commission shipping and navigation regulations. The information collected will be used for economic analyses, traffic forecasting, identification, tonnage calculation, billing, safety and sanitation purposes.

Burden Statement: It is estimated the burden (which varies widely, depending upon the nature of each vessel's operations) for cargo vessels ranges from 5 minutes to 4 hours per response. The burden will be lessened for those vessels having the capability of producing computer-generated cargo declarations. For passenger vessels, the range would be from approximately 2 hours to 13 hours. The utilization of computer-generated crew and passenger lists should reduce by 8 to 10 hours the time required of a vessel like the ''M/V GALAXY.'' The smallest passenger vessels carry about 13 passengers; one of the largest, the ''M/V GALAXY'' is capable of carrying 2,217 passengers. It would be very difficult to provide a meaningful estimate of the total burden for each vessel since some transit frequently, while others may transit only once or infrequently.

Estimated Number of Respondents: 16,487.

Estimated Total Hours per Response: 2.

Total Annual Reporting Hour Burden: 32,974.

Respondents: Canal users.

Frequency of Collection: When arriving in Panama Canal waters.

Jacinto Wong,

Chief Information Officer, Senior Official for Information Resources Management.

[FR Doc. 97–14034 Filed 5–28–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 22679; 812–9934]

The Latin American Discovery Fund, Inc., et al.; Notice of Application

May 21, 1997.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (''Act'').

APPLICANTS: The Latin American Discovery Fund, Inc., The Malaysia Fund, Inc., Morgan Stanley Africa Investment Fund, Inc., Morgan Stanley Asia-Pacific Fund, Inc., Morgan Stanley Emerging Markets Debt Fund, Inc., Morgan Stanley Emerging Markets Fund, Inc., Morgan Stanley Fund, Inc., Morgan Stanley Global Opportunity Bond Fund, Inc., Morgan Stanley High Yield Fund, Inc., Morgan Stanley India Investment Fund, Inc., Morgan Stanley Institutional Fund, Inc., The Pakistan Investment Fund, Inc., Morgan Stanley Russia and New Europe Fund, Inc., Morgan Stanley Universal Fund, Inc., The Turkish Investment Fund, Inc. (collectively, the ''Funds''); Morgan Stanley Asset Management Inc.

(''MSAM''); Morgan Stanley Trust Company (''MSTC''); Morgan Stanley & Co. Incorporated (''MS&Co''); MS Securities Services Inc. (''MSSSI''), and Morgan Stanley Market Products Inc. (''MS Market Products''), on behalf of themselves and (i) securities brokers now or in the future controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with MS&Co, Morgan Stanley Group Inc. (''MS Group''), or Morgan Stanley, Dean Witter, Discover & Co. (''MSDWD'') [1] (collectively with MS&Co, MSSSI, and MS Market Products, the ''Affiliated Broker-Dealers''), (ii) registered investment companies for which MSAM or any person controlling, controlled by or under common control with MSAM, MS Group, or MSDWD now or in the future serves as investment adviser (the ''Future Funds''), and (iii) Fund custodians now or in the future controlling, controlled by, or under common control with MSTC, MS Group, or MSDWD.

RELEVANT ACT SECTIONS: Exemption requested under sections 6(c) and 17(b) of the Act from section 17(a)(3), and under rule 17d–1 from section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order to permit: (i) The Funds to lend their portfolio securities to Affiliated Broker-Dealers; (ii) MSTC to receive a fee from the Funds for its services as lending agent, such fee to be based upon a share of the proceeds derived by the Funds from their securities lending activities and (iii) the Funds to deposit cash collateral received in connection with their securities lending activities in one or more joint trading accounts or subaccounts (the ''Cash Collateral Joint Accounts'').

FILING DATES: The application was filed on December 26, 1995, and amended on May 10, 1996, December 20, 1996, March 18, 1997, and May 19, 1997.

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 June 16, 1997, 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 such notification by writing to the SEC's secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: MSSI and MSTC, One Pierrepont Plaza, Brooklyn, New York 11201; all other applicants, 1585 Broadway, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942–0583, or Mary Kay Frech, 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 from the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are management investment companies registered under the Act. MSAM. a wholly-owned subsidiary of MS Group, is an investment adviser registered under the Investment Advisers Act of 1940, and acts as adviser to each Fund.

2. MS&Co, a wholly-owned subsidiary of MS Group, is a registered broker-dealer. MSSSI, a wholly-owned subsidiary of MS&Co, also is a registered broker-dealer. MS Market Products, a wholly-owned subsidiary of MS Group, is primarily engaged in the trading, on principal basis, of Government agency mortgage-backed securities and over-the counter options on U.S. Treasury securities.

3. MSTC is a wholly-owned subsidiary of MS Group that is organized as a trust company under the laws of the State of New York. MSTC serves as custodian for each of the Funds, and maintains an extensive monitoring system tot rack the Funds' securities holdings.

4. The Funds propose to lend portfolio securities to securities brokerage firms, including the Affiliated Broker-Dealers, that meet certain established criteria (collectively, the ''Borrowers''). MSTC proposes to act as lending agent for the Funds in securities loans to the Borrowers. Subject to parameters set forth in procedures approved by the board of directors of each Fund, MSAM will pre-approve both securities that are eligible to be loaned and eligible Borrowers.[2] MSTC will be responsible for soliciting Borrowers from among those pre-approved, negotiating the terms of each loan within pre-approved limits, monitoring collateral requirements, investing cash collateral under the supervision of and in accordance with guidelines established by MSAM, and performing other administrative or ministerial functions in connection with each Fund's securities lending program.[3]

5. Applicants state that the conditions and monitoring to which the securities lending program will be subject will protect the Funds against potential favoritism of Affiliated Broker-Dealers by MSTC. In order to ensure that securities loans to Affiliated Broker-Dealers do not involve overreaching, each such loan will be made with a spread that is no lower than that applied to comparable loans to unaffiliated broker-dealers.[4] In addition, at least 50% of the loans made by the Funds, on an aggregate basis, will be made to unaffiliated Borrowers, all loans will be made with spreads that conform to a schedule of spreads established by the directors of each Fund who are not ''interested persons'' of the Fund as defined in section 2(a)(19) of the Act (the ''Disinterested Directors''), and all transactions with Affiliated Broker-Dealers will be monitored daily by an officer of each Fund to ensure that the terms of such loans are comparable with the terms of that Fund's loans to unaffiliated Borrowers.[5] In addition, the lending committee of each Fund

[1] All of the named applicants are directly or indirectly controlling, controlled by, or under common control with MS Group. In February 1997, MS Group signed a merger agreement contemplating the merger of MS Group with and into Dean Witter Discover & Co. to form MSDWD, a new corporation. As a result, MS Group is expected to be merged out of existence and the new holding company of the Morgan Stanley entities will be MSDWD. Existing entities that currently do not intend to rely on the requested order have not signed the application. These entities may rely on any such order in the future, however, if they decide to participate in the securities lending activities and cash collateral joint accounts described in the application.

[2] In the case of Future Funds advised by affiliated persons of MSAM, the affiliate rather than MSAM may establish the written parameters for securities lending and the Cash Collateral Joint Accounts, in compliance with the representations and conditions contained herein.

[3] *See Norwest Bank Minnesota N.A. and Society National Bank* (pub. avail. May 25, 1995).

[4] In the absence of comparable loans to unaffiliated entities on any given day, MSTC will review the fairness of the negotiated rebate to an Affiliated Broker-Dealer by analyzing the rebates paid in recent loans of securities of that type, taking into account overall trends in the securities lending and other financial markets since the rebate was made.

[5] If there are no directly comparable loans and the officer cannot make a reasonable evaluation based on all the loans outstanding, the officer will contact the Funds' securities lending agent for an explanation of the method used to determine the spread charged. In the quarterly reports to the Lending Committee, the officer will specifically note those spreads for which he could not arrive at a reasonable evaluation and the reasons for the difficulty in arriving at an evaluation.

(''Lending Committee'') (which will be composed of Disinterested Directors) will review detailed quarterly and annual reports on all lending activity.

6. Applicants represent that MSTC's procedures for soliciting and negotiating securities loans will provide additional protection against potential favoritism of Affiliated Broker-Dealers. If more than one Borrower requests a loan of the same assets, MSTC will allocate those assets on a first-come, first-served basis. If more than one request for the same security is received at approximately the same time, other factors, such as price and volume of business, may be considered. Furthermore, when MSTC negotiates a fee with a Borrower for securities available for lending, it will do so on a global basis for its entire available inventory in that security; at the time the fee is agreed upon, the MSTC trader will not know which leading client will supply the assets. Finally, MSTC's discretion will be circumscribed further by the fact that it cannot enter into a loan in which transaction costs would exceed the income attributable to the loan.

7. MSTC's fee for acting as securities lending agent will be based on a share of returns generated by the investment of cash collateral received by the Fund (or, where non-cash collateral is accepted, on a share of the fee paid to the Fund by the Borrower). Applicants propose the following safeguards to ensure that the fee arrangement and other terms of the relationship between the Funds and MSTC are fair:

a. In connection with the initial approval of MSTC as lending agent to a Fund, a majority of the board of directors of each Fund (including a majority of the Disinterested Directors) will determine that (i) The contract with MSTC is in the best interests of the fund and its shareholders; (ii) the services to be performed by MSTC are required by the Fund; (iii) the nature and quality of the services provided by MSTC are at least equal to those provided by others offering the same or similar services; and (iv) the fees for MSTC's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

b. In connection with the initial approval of MSTC as lending agent to a Fund, the board of directors of the Fund will review the lending agent fees of at least three independent lending agents to assist the board in making the findings referred to above.

c. Each Fund's contract with MSTC for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the board of directors of each Fund (including a majority of the Disinterested Directors) makes the findings referred to above.

8. The Funds also propose to establish Cash Collateral Joint Accounts with Chase Manhattan Bank (''Chase'') or another custodian or subcustodian (collectively with Chase, the ''Custodians''), into which they intend to deposit some or all of the cash collateral received in connection with the securities lending programs.[6] The balance in these accounts will be used to enter into repurchase agreements with an overnight, over-the-weekend or over-a-holiday maturity (''Overnight Investments''). The maximum maturity of any Overnight Investment will be seven days. No Fund will be under any obligation, on any day, to deposit its cash collateral, or any portion of it, in any Cash Collateral Joint Account.

9. The board of directors for each Fund will establish standards and procedures for Overnight Investments. These standards and procedures will include the requirements that each Overnight Investment (a) be fully collateralized (as defined in rule 2a–7 under the Act) at all times, (b) comply with the investment, and (c) include creditworthiness standards for repurchase agreement counterparties. Each Fund's list of approved counterparties will be monitored by MSAM on an ongoing basis and reviewed quarterly by that Fund's board of directors.[7]

10. The Cash Collateral Joint Accounts may comprise multiple joint subaccounts, if MSAM determines that multiple joint subaccounts are necessary or advisable to provide the Funds with additional flexibility and choice in the Overnight Investments in which they choose to invest. For example, one joint subaccount may accept only Treasury securities as collateral, while another may accept other U.S. Government securities as collateral, and yet another may accept as collateral high quality commercial paper. Joint subaccounts may also be established for other reasons, such as to facilitate monitoring of individual Funds' interests in different Overnight Investments, or to permit tracking of Overnight Investments with different counterparties, consistent with the variations in investment restrictions and policies among the various Funds.

11. For each Overnight Investment, the Custodian will calculate the market price of the collateral (to ensure full collateralization) and the interest earned at maturity, and will monitor aggregate exposure to each approved counterparty. The Custodian also will record each Fund's deposits into the Cash Collateral Joint Accounts and maintain account records with respect to each Fund and the Joint Accounts generally, updated daily. At the end of each day, the custodian will reconcile the aggregate amount of each Fund's designated cash collateral with the total amount of Overnight Investments made. The same allocations data from the settlement system also will be provided daily to MSAM and to MSTC as custodian for the Funds. This information will show each Fund's investments in the Joint Accounts and the interest rate and maturity of each Overnight Investment. The Custodian also will provide monthly reports of all Overnight Investments and each Fund's investments in and earnings from the Joint Accounts. MSAM will review the daily and monthly reports to ensure that the Overnight Investments have been made in compliance with the guidelines set by each Fund's board of directors and the conditions set forth in the application.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act makes it unlawful for any affiliated person of a registered investment company (or any affiliated person of such person), acting as principal, to borrow money or other property from that investment company. Section 2(a)(3) of the Act defines the term ''affiliated person'' of another person to include any person under common control with that other person and, if that other person is an investment company, any investment adviser of that company. Because MSAM and the Affiliated Broker-Dealers are under the common control of MS Group, they may be deemed to be affiliated persons of each other. In addition, MSAM is an affiliated person of the Funds. Accordingly, absent an exemption from section 17(a)(3), the Affiliated Broker-Dealers would not be

[6] Initially, the Funds intend to establish only one Cash Collateral Joint Account, although they may establish other Cash Collateral Joint Accounts in the future with Chase or other Custodians. Such accounts may be used to invest in investments collateralized by only a particular type of collateral.

[7] Applicants expect that approved counterparties will consist of (a) any bank that, at the time a repurchase agreement is entered into, has a rating not less than AAA from Standard & Poor's Ratings Group (''S&P'') or the equivalent thereof by a nationally recognized statistical rating organization (''NRSRO''), and (b) any broker-dealer that, at the time a repurchase agreement is entered into, has a rating not lower than A from S&P or the equivalent thereof by a NRSRO (or, if the broker-dealer is a wholly-owned subsidiary, its parent has such a rating). The approved counterparties will not include a Custodian, MSAM, or any person directly or indirectly controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with a Custodian or MSAM.

permitted to borrow property from the Funds.

2. Section 17(b) of the Act provides that any person may file an application for an exemption from section 17(a) with the SEC, and the SEC shall grant the requested relief if it is established that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned (as recited in its registration statement and reports filed under the Act); and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act provides that the SEC by order upon application may conditionally or unconditionally exempt any person, security, or transaction (or any class or classes thereof) from any provisions of the Act, if and to the extent that such exemption is necessary or 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 request an order under sections 6(c) and 17(b) for an exemption from the provisions of section 17(a)(3) to avoid having to file a separate application for an order pursuant to section 17(b) with respect to each proposed securities loan.

3. Applicants assert that the terms of the proposed securities loans to Affiliated Broker-Dealers, as outlined above, including the consideration to be paid to the Funds, are reasonable and fair and do not involve overreaching. Applicants also submit that the proposed securities loans are consistent with the policy of each Fund, as recited in its registration statement and reports filed under the Act. Applicants believe that the proposed securities loans are consistent with the general purposes of the Act, as a failure to grant the requested exemption would limit the number of companies to which the Funds can lend securities and would exclude MS&Co, one of the largest single borrowers of securities, from the group of Borrowers to which the Funds may loan securities. Furthermore, the lack of diversity in Borrowers could have a tangible effect on the spreads that the Funds receive from unaffiliated broker-dealers, who would not be subject to competition from Affiliated Broker-Dealers. Finally, applicants believe that the safeguards described above will ensure a substantially similar level of investor protection to that afforded by section 17(a)(3), and that the requested exemption is consistent with the protection of investors and with the purpose, policy and provisions of the Act.

4. Section 17(d) of the Act makes it unlawful for any affiliated person, or affiliated person of an affiliated person, of a registered investment company, acting as principal, to effect any transaction in which the company is a joint or joint and several participant with the affiliated person in contravention of such rules and regulations as the SEC may prescribe for the purpose of limiting or preventing participation by such company. Rule 17d–1 thereunder authorizes the SEC to grant an exemption if the participation of each of the Funds is not on a basis different from or less advantageous than that of the other participants and is consistent with the provisions, policies, and purposes of the Act.

5. Because MSAM and MSTC are subsidiaries of the same parent company and because MSTC's compensation as securities lending agent will be based on a share of returns, the compensation of MSTC in its capacity as securities lending agent for the Funds may be deemed to involve a prohibited joint enterprise or joint transaction or profit-sharing plan within the meaning of section 17(d) and rule 17d–1 thereunder. Applicants assert, however, that the arrangements outlined above pursuant to which MSTC will receive its lending agent fee satisfy the requirements of rule 17d–1 for an exemption.

6. Applicants believe that MSTC is the most advantageous choice to employ as lending agent for the Funds and Future Funds, even if MSTC does not serve as custodian for the Future Funds. MSTC is experienced in securities lending, and already maintains communications links with a wide range of Borrowers. In addition, MSTC can administer the Funds' securities lending program through systems it already has in place to monitor the Funds' securities holdings. Applicants represent that an unaffiliated lending agent would have to maintain a parallel communications and monitoring system for securities lending purposes, raising the prospect that redundancies and inconsistencies between securities lending networks would create confusion and inefficiency within the funds' securities lending program, the cost of which would be passed on to the Funds.

7. Applicants also believe that the Funds' participation in the proposed Cash Collateral Joint Accounts could be deemed to involve a prohibited joint enterprise or joint transaction or profit-sharing plan within the meaning of section 17(d) and rule 17d–1. Each Fund may be deemed an affiliated person of each other Fund under the definition set forth in section 2(a)(3).

8. Applicants believe that investing in Overnight Investments through the Cash Collateral Joint Accounts, as contrasted with separated accounts, would increase the Funds' average returns on Overnight Investments because use of the Cash Collateral Joint Accounts is expected to reduce transaction costs and enable MSAM to negotiate more favorable interest rates on these instruments. In addition, tri-party repurchase agreements (*i.e.*, repurchase agreements in which both parties maintain accounts at the same custodian bank) for which there are no collateral transfer costs and, as a consequence, higher net yields, may not be available for small transactions.

9. Applicants believe that the proposed operation of the Cash Collateral Joint Accounts will be free of any inherent bias favoring one Fund over another, and that the anticipated benefits flowing to each participating Fund will fall within an acceptable range of fairness. Applicants also believe that the proposed method of operating the Cash Collateral Joint Accounts will not result in any conflicts of interest between any of the Funds or between any Funds and MSAM. MSAM will likely gain some benefit through the administrative convenience of investing in Overnight Investments on a joint basis and may experience some reduction in clerical costs. Applicants assert that the Funds will be the primary beneficiaries of the proposed joint investments in overnight Investments, however, because of the increased efficiencies realized through use of the Cash Collateral Joint Accounts, the possible increase in rates of return available, and, for some Funds, the opportunity to invest in Overnight Investments. Accordingly, applicants submit that the proposed operations of the Cash Collateral Joint Accounts meet the standard established in rule 17d–1 for granting exemptions under that rule.

10. Applicants submit that participation in an integrated securities lending program would permit the Funds to derive benefits beyond those conferred by each individual exemption. Specifically, applicants believe that it is important for the success of the securities lending program that the Funds be permitted to use the strength of their combined securities inventories and the breadth of their relationships with all Borrowers to obtain the best available spreads on securities loans to Affiliated Broker-Dealers and unaffiliated broker-dealers alike. All spreads will be measured

against an objective benchmark established by the schedule of spreads as well as an objective benchmark established by comparable market transactions. The combination of loans to Affiliated Broker-Dealers and the use of MSTC as lending agent will permit the Funds to offer their broad array of securities collectively and efficiently, and to develop the business relationships necessary for a successful securities lending program. In addition, the use of Cash Collateral Joint Accounts will provide the Funds with an opportunity to maximize the advantages of the securities lending program through the investment of cash collateral obtained through the program. Finally, applicants state that the potential for overreaching by affiliates in the consolidated securities lending program will be avoided through the combination of oversight by Fund directors and officers, the competitive pressures of the securities lending market, and compliance with explicit, objective conditions that can be easily verified.

Applicants' Conditions

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

1. The Funds, on an aggregate basis, will make at least 50% of their portfolio securities loans to unaffiliated Borrowers.

2. A Fund will not make any loan to an Affiliated Broker-Dealer unless the income attributable to such loan fully covers the transaction costs incurred in making such loan.

3. a. All loans will be made with spreads no lower than those set forth in a schedule of spreads (the ''Schedule of Spreads'').

b. The Schedule of Spreads, which will be established and may be modified from time to time by committees of the Funds' board of directors composed of Disinterested Directors, will set forth rates of compensation to the Funds that are reasonable and fair, and that are determined in light of those considerations set forth in the application. The Schedule of Spreads and any modifications thereto will be ratified by the full board of directors of each Fund and by a majority of the Disinterested Directors.

c. The Schedule of Spreads will be uniformly applied to all Borrowers of the Funds' portfolio securities, and will specify the lowest allowable spread with respect to a loan of securities to any Borrower.

d. If a security is loaned to an unaffiliated Borrower with a spread higher than the minimum set forth in the Schedule of Spreads, all comparable loans to an Affiliated Broker-Dealer will be made at no less than the higher spread.

e. The Funds' portfolio securities lending program will be monitored on a daily basis by an officer of each Fund who is subject to section 36(a) of the Act. This officer will review the terms of each loan to an Affiliated Broker-Dealer for comparability with loans to unaffiliated Borrowers and conformity with the Schedule of Spreads, and will periodically, and at least quarterly, report his or her findings to the Funds' Lending Committees.

4. The boards of directors of the Funds, including a majority of the directors who are not interested persons, (a) will determine no less frequently than quarterly that all transactions with Affiliated Broker-Dealers effected during the preceding quarter were effected in compliance with the requirements of the procedures adopted by the boards and the conditions of any order that may be granted and that such transactions were documented on terms that were reasonable and fair; and (b) will review no less frequently than annually such requirements and conditions for their continuing appropriateness.

5. The Funds will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) that are followed in lending securities, and shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan occurs, the first two years in an easily accessible place, a written record of each loan setting forth the number of shares loaned, the face amount of the securities loaned, the fee received (or the rebate remitted), the identity of the Borrower, the terms of the loan, and any other information or materials upon which the finding was made that each loan made to an Affiliated Broker-Dealer was fair and reasonable, and that the procedures followed in making such loan were in accordance with the other undertakings set forth herein.

6. The total value of securities loaned to any one broker-dealer on the approved list will be in accordance with a schedule to be approved by the board of directors of each Fund, but in no event will the total value of securities that may be loaned to any one Affiliated Broker-Dealer exceed 10% of the net assets of the Fund, computed at market.

7. Except as set forth herein, the securities lending program of each Fund will comply with all present and future applicable SEC staff positions regarding securities lending arrangements, *ie.*, with respect to the type and amount of collateral, voting of loaned securities, limitations on the percentage of portfolio securities on loan, prospectus disclosure, termination of loans, receipt of dividends or other distributions, and compliance with fundamental policies.

8. Approval of the board of directors of a Fund, including a majority of the Disinterested Directors, shall be required for the initial and subsequent approvals of MSTC's service as lending agent for the Fund, for the institution of all procedures relating to the securities lending program of the Fund, and for any periodic review of loan transactions for which MSTC acted as lending agent.

9. The Cash Collateral Joint Accounts will be established as one or more separate cash accounts on behalf of the Funds at a Custodian. Each Fund may deposit, daily, all or a portion of its cash collateral into the Cash Collateral Joint Accounts.

10. Cash in the Cash Collateral Joint Accounts will be invested solely in Overnight Investments that are collateralized fully, as defined in rule 2a–7 under the Act, and that comply with the investments policies of all Funds participating in that Overnight Investment.

11. All Overnight Investments invested in through the Cash Collateral Joint Accounts will be valued on an amortized cost basis. Each Fund that relies on rule 2a–7 will use the dollarweighted average maturity of a Cash Collateral Joint Account's Overnight Investments for the purpose of computing that Fund's average portfolio maturity with respect to the portion of the cash collateral held by it in that Cash Collateral Joint Account.

12. In order to ensure that there will be no opportunity for one Fund to use any part of a balance of any Cash Collateral Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Cash Collateral Joint Account for any reason, although each Fund will be permitted to draw down its *pro rata* share of the entire balance at any time. Each Fund's decision to invest through the Cash Collateral Joint Accounts shall be solely at the option of that Fund and MSAM (within the strict standards and procedures established by that Fund's board of directors), and no Fund will, in any way, be obligated to invest through, or to maintain any minimum balance in, the Cash Collateral Joint Accounts. In addition, each Fund will retain the sole rights to any of the cash collateral, including interest payable on the cash collateral, invested by that Fund through the Cash Collateral Joint

Accounts. Each Fund's investments effected through the Cash Collateral Joint Accounts will be documented daily on the books of that Fund as well as on the books of the Custodian.

13. Each Fund will participate in the income earned or accrued in the Cash Collateral Joint Accounts through which it is invested on the basis of its percentage share of the total balance of such Cash Collateral Joint Accounts on that day.

14. MSAM (or the appropriate affiliated investment adviser) will administer the Cash Collateral Joint Accounts in accordance with the strict standards and procedures established by the boards of directors of the Funds as part of its duties under the existing or any future investment advisory contracts with the Funds. MSAM and its investment adviser affiliates will receive no additional or separate fee for administering the Cash Collateral Joint Accounts.

15. The administration of the Cash Collateral Joint Accounts will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

16. The board of directors for each Fund investing in Overnight Investments through the Cash Collateral Joint Accounts will adopt procedures pursuant to which such Accounts will operate, which procedures will be reasonably designed to provide that requirements of the exemption will be met. In addition, not less frequently than annually, the boards will evaluate the Cash Collateral Joint Account arrangements, will determine whether such Accounts have been operated in accordance with the adopted procedures, and will authorize a Fund's continued participation in such Accounts only if the Board determines that there is a reasonable likelihood that such continued participation would benefit that Fund and its shareholders.

17. Substantially all investments by the Cash Collateral Joint Accounts will be Overnight Investments with a maximum maturity of seven days.

18. The Cash Collateral Joint Accounts will not be distinguished from any other accounts maintained by a Fund with a Custodian except that cash collateral from various Fund will be deposited in the Cash Collateral Joint Accounts on a commingled basis. The Cash Collateral Joint Account will not have separate existence with indicia of a separate legal entity. The sole function of the Cash Collateral Joint Accounts will be provide a convenient way of aggregating individual transactions that would otherwise require daily management and investment by each Fund of its cash collateral.

19. All transactions in Overnight Investments will be effected in accordance with Investment Company Act Release No. 13005 (February 2, 1983) and with other existing and future positions taken by the SEC or its staff by rule, interpretive release, no-action letter, any release adopting any new rule, or any release adopting any amendments to any existing rule.

For the SEC, by the Division or Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38669; File No. SR–NYSE–97–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Amendments to the Exchange's Allocation Policy and Procedures

May 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 16, 1997, the New York Stock Exchange, Inc. (''NYSE'' 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 self-regulatory organization. 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 Exchange, pursuant to Rule 19b–4 of the Act, submits a proposed rule change amending the NYSE's Allocation Policy and Procedures. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]

New York Stock Exchange, Inc., Allocation Policy and Procedures

I. Purpose

The current allocation process was established in 1976. [In September 1987] *T*[t]he Quality of Markets Committee of the NYSE Board of Directors *has periodically* appointed [a] special Allocation System Review Committees (ARC*s*) to conduct [a] comprehensive reviews of the allocation process. [The ARC's recommendations were implemented once approved by the SEC in May 1990. A second and third committee were appointed to review the policy and to make revisions where appropriate.] The objective of each review was to preserve the integrity of the original system and build upon its strengths, in order to ensure that the allocation process:

(1) Is based on fairness and consistency;

(2) Maximizes the professionalism, expertise and objectivity of committee members;

(3) Minimizes potential conflicts of interest;

(4) Rewards performance and provides an incentive for performance improvement;

(5) Spreads reward and risk throughout the specialist system, in order to contribute to its strength and continued viability;

(6) Provides the best possible match between specialist unit and stock, and provides an opportunity for input from the listing company for that purpose;

(7) Provides for education of all participants in the allocation process; and

(8) Ensures the strength and autonomy of the Allocation Committee in applying policy.

[Both committees concluded that, since its inception in 1976, the allocation process has worked very well.] Because specialists can expand their business only by increasing the number of their specialty stocks, allocation criteria and procedures and the performance evaluations on which they rely focus critical attention on customer service and ongoing improvement in the level of specialists' performance. The result is higher quality markets, benefiting the investing public, listed companies and member organizations.

[The committee recognizes that one key to continued success is ongoing education to ensure understanding of and commitment to the allocation process. The effectiveness of the allocation system, and the full confidence of the broad range of Exchange constituents in that process, also depend on specialist performance data and can be sustained only to the extent that the performance evaluation process provides the highest quality data to the deliberative process. The Allocation System Review Committee reviewed and developed recommendations regarding the SPEQ

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