affiliated person, of a registered investment company, from selling any security or other property to such registered investment company. Section 17(a)(2) of the Act prohibits such affiliated persons from purchasing any security or other property from such registered investment company.

10. Section 17(b) of the Act authorizes the Commission to issue an order exempting a proposed transaction from Section 17(a) if: (a) the terms of the proposed transaction are fair and reasonable 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; and (c) the proposed transaction is consistent with the general purposes of the Act.

11. Applicants request an order pursuant to Section 17(b) of the Act exempting them, Pegasus Trust and One Group Trust from the provisions of Section 17(a) to the extent necessary to permit Hartford to carry out the Substitutions.

12. Applicants assert that the terms of the Substitutions, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants also assert that the proposed substitutions by Hartford are consistent with the policies of: (a) Pegasus Trust and of its Bond Fund, Growth and Value Fund, Mid Cap Opportunity Fund, Growth Fund and Intrinsic Value Fund; and (b) One Group Trust and of its Bond Fund, Value Growth Fund, Mid Cap Opportunities Fund, Large Company Growth Fund and Mid Cap Value Fund, as recited in the current registration statements and reports filed by each under the Act. Finally, Applicants assert that the proposed substitutions are consistent with the general purposes of the Act.

13. The proposed transactions will be effected at the respective net asset value. The proposed transactions will not change the amount of any Contract owner's Contract or cash value or death benefit or in the dollar value of his or her investment in either of the Accounts. Applicants also state that the transactions will conform substantially with the conditions enumerated in Rule 17a–7. Applicants assert that to the extent that the proposed transactions do not comply fully with all of the conditions of Rule 17a–7 and each Trust's procedures thereunder, the circumstances surrounding the proposed substitutions will be such as to offer the same degree of protection to each Fund of Pegasus Trust and the affected Funds of One Group Trust from overreaching that Rule 17a–7 provides to them generally in connection with their purchase and sale of securities under that Rule in the ordinary course of their business.

14. Applicants assert that because of the circumstances surrounding the proposed Hartford substitutions, Pegasus Trust could not "dump" undesirable securities on One Group Trust or have their desirable securities transferred to other advisory clients of Banc One Investment Advisers or to Funds other than those in One Group Trust supporting the Accounts. Nor can Hartford (or any of its affiliates) effect the proposed transactions at a price that is disadvantageous to any Pegasus Trust Fund or One Group Trust Fund. Although the transactions may not be entirely for cash, each will be effected based upon: (a) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7; and (b) the net asset value per share of each Fund involved valued in accordance with the procedures disclosed in the respective Trust's registration statement and as required by Rule 22c–1 under the Act. Applicants assert that no brokerage commission, fee, or other remuneration will be paid to any party in connection with the proposed transactions. In addition, Applicants assert that the boards of trustees of each Trust will subsequently review the Substitutions and make the determinations required by paragraph (e)(3) of Rule 17a–7.

15. Applicants assert that the proposed transactions are consistent with the general purposes of the Act and that the proposed transactions do not present any of the conditions or abuses that the Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons summarized above, the Substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–1322 Filed 1–20–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23649; 812–11342]

Templeton Dragon Fund, Inc.; Notice of Application

January 13, 1999.

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

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 19(b) of the Act and rule 19b–1 under the Act.

SUMMARY OF APPLICATION: Applicant, Templeton Dragon Fund, Inc. (the "Fund"), a registered closed-end management investment company, requests an order to permit it to make up to four distributions of net long-term capital gains in any one taxable year, so long as it maintains in effect a distribution policy with respect to its common stock calling for quarterly distributions of a fixed percentage of its net asset value ("NAV").

FILING DATES: The application was filed on October 7, 1998, and amended on January 11, 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 8, 1999 and should be accompanied by proof of service on applicant, 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 of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549. Applicant, 500 East Broward Boulevard, Suite 2100, Fort Lauderdale, Florida 33394–3091.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or George J. Zornada, Branch Chief at (202) 942–0564, Office of Investment Company Regulation, Division of Investment Management.

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

Commission's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549 (tel. 202–942–8090).

Applicant's Representations

1. The Fund is registered under the Act as a closed-end management investment company and organized as a Maryland corporation. The Fund's investment objective is to seek long-term capital appreciation by investing at least 45% of its total assets in ''China companies,'' as defined in the Fund's prospectus. Shares of the Fund are listed on the New York Stock Exchange and the Osaka Stock Exchange. Templeton Asset Management Ltd.—Hong Kong branch is the fund's investment adviser and is registered under the Investment Advisers Act of 1940.

2. On July 22, 1998, the fund's board of directors (''Board''), including a majority of the independent directors, adopted a distribution plan with respect to applicant's common stock under which the Fund will make quarterly distributions to its shareholders in an amount equal to 2.5% of the Fund's NAV, determined as the Friday prior to the declaration date (''Distribution Policy''). The Board concluded that adoption of the Distribution Policy would be in the best interests of the Fund's shareholders and could help reduce the discount from NAV at which applicant's shares generally have traded. Applicant requests relief to permit it to make up to four distributions of net long-term capital gains in one taxable year, so long as the Fund maintains in effect the Distribution Policy.

Applicant's Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b–1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the ''Code''). Rule 19b–1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b–1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. Applicant asserts that rule 19b–1, by limiting the number of net long-term capital gains distributions that the Fund may make with respect to any one year, would prevent the normal operation of its Distribution Policy whenever applicant's realized net long-term gains in any year exceed the total of the fixed quarterly distributions that under rule 19b–1 may include such capital gains. As a result, applicant states that it must fund these quarterly distributions with returns of capital (to the extent net investment income and realized short-term capital gains are insufficient to cover quarterly distributions). Applicant further asserts that the long-term capital gains in excess of the fixed quarterly distributions permitted by rule 19b–1 then must either be added to one of the permitted capital gains distributions, thus exceeding the total minimum amount called for by the Distribution Policy, or be retained by the applicant, with the applicant paying taxes on the amount retained. Applicant believes that the application of rule 19b–1 to its Distribution Policy may create pressure to limit the realization of long-term capital gains to the total amount of the fixed quarterly distributions that under the rule may include such gains.

3. Applicant believes that the concerns underlying section 19(b) and rule 19b–1 are not present in applicant's situation. One of the concerns leading to the adoption of the rule was that shareholders might not be able to distinguish between frequent distributions of capital gains and dividends from net investment income. Applicant states that it will fully describe the Distribution Policy, including that quarterly distributions called for by the Distribution Policy will include returns of capital to the extent that applicant's net investment income and net long-term realized capital gains are insufficient to meet the fixed dividends, in periodic communications. The Fund has described to shareholders the Distribution Policy in the Fund's most recent proxy material and shareholder report. In accordance with rule 19a–1 under the Act, a separate statement showing the source of the distribution (net investment company taxable income, net long-term realized capital gain or return of capital) will accompany each distribution (or the confirmation of the reinvestment thereof under applicant's dividend reinvestment plan). In addition, a statement showing the amount and source of each distribution during the year will be included with the applicant's annual tax information reporting distributions for that year and sent to each shareholder who received distributions during the year, including shareholders who have sold shares during the year.

4. Another concern underlying section 19(b) and rule 19b–1 is that frequent capital gains distributions could facilitate improper sales practices, including, in particular, the practice of urging an investor to purchase fund shares on the basis of an upcoming dividend (''selling the dividend''), when the dividend would result in an immediate corresponding reduction in NAV and would be, in effect, a return of the investor's capital. Applicant submits that this concern does not apply to closed-end investment companies, such as applicant, that do not continuously distribute shares. Applicant further asserts that if it makes a rights offering to its shareholders, the rights offering will be timed so that shares issuable upon exercise of the rights will be issued only in the six week period immediately following the record date for the declaration of a dividend. Thus, the abuse of selling the dividend could not occur as a matter of timing. Applicant further states that any offering by applicant of transferable rights will comply with all Commission and staff guidelines concerning such offering. In determining compliance with these guidelines, the Board will consider, among other things, the brokerage commissions that would be paid in connection with the offering. Any such offering by applicant of transferable rights will also comply with any applicable NASD rules regarding the fairness of compensation.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, or any rule thereunder, if 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. For the reasons stated above, applicant believes that the requested exemption meets the standards set forth in section 6(c) of the Act.

Applicant's Condition

The Fund agrees that the order granting the requested relief shall terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by the Fund of its shares other than:

(i) a rights offering with respect to the Fund's common stock to holders of the Fund's common stock, in which (a) shares are issued only within the six-week period immediately following the record date of a quarterly dividend, (b) the prospectus for such rights offering makes it clear that shareholders exercising the rights will not be entitled to receive such dividend, and (c) the Fund has not engaged in more than one rights offering during any given calendar year; or

(ii) an offering in connection with a merger, consolidation, acquisition, spin-off or reorganization of the Fund, unless the Fund has received from the staff of the Commission written assurance that the order will remain in effect.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–1326 Filed 1–20–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40946; File No. SR–NSCC–98–15]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding Year 2000 Testing

January 14, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 29, 1998, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') and on January 8, 1999, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

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

Under the proposed rule change, NSCC will require certain NSCC members to participate in the Security Industry Association's (SIA) Year 2000 test beginning in March 1999.

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

In its filing with the Commission, NSCC 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 test of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

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

NSCC's Rule 15 provides, ''The Corporation shall establish, as it deems necessary or appropriate, standards of financial responsibility, operational capability, experience and competence for membership.'' In connection with this standard, NSCC has determined that members who utilize Equity, Fixed Income, or Mutual Funds services and who settle transactions through NSCC must validate their Year 2000 readiness through participation in the SIA Year 2000 test beginning in March 1999. NSCC considers the SIA test appropriate to confirm Year 2000 readiness of its critical members because NSCC's products and services will be represented in this industry-wide effort.

As a prerequisite to participation in the SIA test, members are required to perform connectivity and point-to-point testing with NSCC. NSCC members are required to contact NSCC by January 15, 1999, to establish a date to perform such prerequisite testing.

On an exception basis, NSCC members subject to this testing mandate may be represented in the SIA test by their service bureau. To qualify for this exception (on a per service basis), the member must obtain prior approval from NSCC and meet all of the following three conditions: (1) the member cannot rely upon a direct connection into NSCC (specifically, their input and output must be handled by a service bureau); (2) the member's volume must not be in the top 90% of the volume of all firms who utilize the service by either dollar or transaction count measurements; and (3) the member cannot represent a processing arrangement with the service bureau that is unique to that member. Members subject to the testing mandate who may be represented in the SIA test by their service bureau will be notified by NSCC by January 29, 1999, that they fall within this exception category.

At the conclusion of the SIA test, all members subject to the testing mandate will be required to provide NSCC with written confirmation, in a format proscribed by NSCC, that test files have been received from NSCC and successfully processed in a Year 2000 compliant manner.[3]

Members who fail to complete prerequisite testing with NSCC prior to the March 1999 SIA test as well as members who are required to participate in the SIA test but fail to do so will be subject to appropriate disciplinary action in accordance with NSCC's rules. Such disciplinary action permits NSCC to limit or restrict a member's access to NSCC. In addition, NSCC could require a member to clear trades through another entity.

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[4], which requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC advised members of its Year 2000 testing requirements in presentations and in an Important Notice, dated September 1, 1998. No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[5] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with this obligation because the required prerequisite and SIA Year 2000 testing should allow NSCC to address potential problems associated with its critical members' Year 2000 readiness. As a result, NSCC should be able to continue

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

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] NSCC will inform members by Important Notice as to the form in which they must provide written confirmation to NSCC regarding test results.

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 15 U.S.C. 78q–1(b)(3)(F).