Staff Assistant to the Director for Executive Scheduling and Operations. Effective May 15, 2003.

Legislative Specialist to the Assistant Secretary for Congressional and Intergovernmental Relations. Effective May 22, 2003.

Department of Justice

Attorney Advisor (Special Assistant) to the Assistant Attorney General for the Environment and Natural Resources Division. Effective May 19, 2003.

Counsel to the Assistant Attorney General (Civil Division). Effective May 19, 2003.

Counsel to the Assistant Attorney General (Legal Policy). Effective May 19, 2003.

Department of Labor

Special Assistant to the Executive Assistant to the Secretary. Effective May 8, 2003.

Regional Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 13, 2003.

Special Assistant to the Assistant Secretary for Employment Standards. Effective May 22, 2003.

Department of the Navy (DOD)

Confidential Assistant to the Assistant Secretary of the Navy for Research, Development and Acquisition. Effective May 7, 2003.

Department of State

Staff Assistant to the Under Secretary for Management. Effective May 6, 2003.

Senior Advisor to the Assistant Secretary for Near Eastern and South Asian Affairs. Effective May 7, 2003.

Special Assistant to the Assistant Secretary for African Affairs. Effective May 13, 2003.

Staff Assistant to the Assistant Secretary for East Indian and Pacific Affairs. Effective May 16, 2003.

Special Assistant to the Under Secretary for Economic, Business and Agricultural Affairs. Effective May 16, 2003.

Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective May 28, 2003.

Special Advisor to the Assistant Secretary for International Organizational Affairs. Effective May 28, 2003.

Department of Transportation

Counselor to the Assistant Secretary for Aviation and International Affairs. Effective May 2, 2003.

Department of the Treasury

Senior Advisor to the Deputy Assistant Secretary for Management and Budget. Effective May 19, 2003.

Special Assistant to the Deputy Assistant Secretary and Chief Human Capital Officer. Effective May 28, 2003.

Federal Mine Safety and Health Review Commission

Confidential Assistant to the Chairman. Effective May 22, 2003.

National Endowment for the Arts

General Counsel to the Chairman of the National Endowment of the Arts. Effective May 14, 2003.

National Transportation Safety Board

Special Assistant to the Vice Chairman. Effective May 5, 2003.

Confidential Assistant to the Vice Chairman. Effective May 5, 2003.

Office of Management and Budget

Public Affairs Specialist to the Associate Director for Communications. Effective May 13, 2003.

Office of National Drug Control Policy

Associate Deputy Director to the Deputy Director for State and Local Affairs. Effective May 22, 2003.

Office of Personnel Management

Special Assistant to the Director for Communications. Effective May 15, 2003.

Confidential Assistant to the Director for Congressional Affairs. Effective May 23, 2003.

Securities and Exchange Commission

Managing Executive for External Affairs to the Chairman of Security and Exchange Commission. Effective May 2, 2003.

Small Business Administration

Director of Intergovernmental Affairs to the Associate Administrator for Communications and Public Liaison. Effective May 13, 2003.

Director, Executive Secretariat to the Chief of Staff. Effective May 28, 2003.

United States Tax Court

Secretary (Confidential Assistant) to a Chief Judge. Effective May 14, 2003.

Secretary (Confidential Assistant) to a Judge. Effective May 20, 2003.

Secretary (Confidential Assistant) to a Chief Judge. Effective May 20, 2003.

Secretary (Confidential Assistant) to a Chief Judge. Effective May 30, 2003.

United States Trade and Development Agency

Public Affairs Specialist to the Director. Effective May 19, 2003.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–18498 Filed 7–21–03; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26100; 812–12833]

PBHG Funds, et al.; Notice of Application

July 15, 2003.

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

ACTION: Notice of an application for an order under (a) section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting an exemption from section 17(a) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF THE APPLICATION: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: PBHG Funds, PBHG Insurance Series Fund (collectively, the ''Trusts''), and Pilgrim Baxter & Associates, Ltd. (''PBA'').

FILING DATES: The application was filed on April 16, 2002, and amended on July 10, 2003. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 August 11, 2003, 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 Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 1400 Liberty Ridge Drive, Wayne, PA 19087–5593.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel at (202) 942–0634 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 at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Trusts are registered under the Act as open-end management investment companies and are organized as Delaware business trusts. The Trusts are comprised of multiple series (the ''Funds''); each series has separate investment objectives, policies and assets.[1] PBA is registered under the Investment Advisers Act of 1940. Each Fund has entered into an investment advisory agreement with PBA.

2. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term investments. Other Funds may borrow money from the same or other banks for temporary purposes to satisfy redemption requests or to cover unanticipated cash shortfalls such as a trade ''fail'' in which cash payment for a security sold by a Fund has been delayed. Currently, the Funds have a credit arrangement with their custodian banks (*i.e.*, overdraft protection) under which the custodian may, but is not obligated to lend money to the Funds to meet the Funds' temporary cash needs. The Funds also have also entered into committed lines of credit with various banks.

3. If the Funds were to borrow money from any bank under their line of credit or under other credit arrangements, the Funds would pay interest on the borrowed cash at a rate which would be higher than the rate that would be earned by other non-borrowing Funds on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants believe this differential represents the bank's profit. Other bank loan arrangements, such as committed lines of credit, require the Funds to pay commitment fees in addition to the interest rate to be paid by the borrowing Fund.

4. Applicants request an order that would permit the Funds to enter into interfund lending agreements (''Interfund Lending Agreements'') under which the Funds would lend and borrow money for temporary purposes directly to and from each other through a credit facility (''Interfund Loan''). Applicants believe that the proposed credit facility would reduce the Funds' borrowing costs and enhance their ability to earn higher interest rates on short-term investments. Although the proposed credit facility would reduce the Funds' need to borrow from banks, the Funds would be free to continue committed lines of credit or other borrowing arrangements with banks.

5. Applicants anticipate that the credit facility would provide a borrowing Fund with significant savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed expected volumes and certain Funds have insufficient cash to satisfy such redemptions. When a Fund liquidates portfolio securities to meet redemption requests, it often does not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also propose using the credit facility when a sale of securities fails due to circumstances such as a delay in the delivery of cash to a Fund's custodian or improper delivery instructions by the broker effecting the transaction. Sales fails may present a cash shortfall if a Fund has purchased securities using the proceeds from the securities sold. When a Fund experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Fund incurs overdraft charges. Under such circumstances, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the credit facility under these circumstances would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

7. While bank borrowings could generally supply needed cash to cover unanticipated redemptions and sales fails, under the proposed credit facility a borrowing Fund would pay lower interest rates than those offered by banks on short-term loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements. Thus, applicants believe that the proposed credit facility would benefit both borrowing and lending Funds.

8. The interest rate charged to a Fund on any Interfund Loan (''Interfund Loan Rate'') would be the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate for any day would be the highest rate available to the Funds from investing in overnight repurchase agreements. The Bank Loan Rate for any day would be calculated by the Credit Facility Committee (as defined below) each day an interfund loan is made according to a formula established by a Fund's board of trustees (''Board'') designed to approximate the lowest interest rate at which bank short-term loans would be available to the Funds. The formula would be based upon a publicly available rate (*e.g.*, Federal Funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. The Board of each Fund would periodically review the continuing appropriateness of using the publicly available rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of the Board.

9. The credit facility would be administered by PBA's fund accounting and legal departments (collectively, the ''Credit Facility Committee''). Under the proposed credit facility, the portfolio managers for each participating Fund could provide standing instructions to participate daily as a borrower or lender. The Credit Facility Committee on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. Once it determined the aggregate amount of cash available for loans and borrowing demand, the Credit Facility Committee would allocate loans among borrowing Funds without any further communication from portfolio

[1] Applicants request that the relief apply to any future series of the Trusts and to any other registered open-end management investment company and series thereof that are advised by PBA or a person controlling, controlled by, or under common control with PBA (included in the term ''Funds''). All existing Funds that currently intend to rely on the requested order have been named as applicants. Any Fund that relies on the order in the future will comply with the terms and conditions of the application.

managers. Applicants expect far more available uninvested cash each day than borrowing demand. After the Credit Facility Committee has allocated cash for Interfund Loans, the Credit Facility Committee would invest any remaining cash in accordance with the standing instructions of portfolio managers or return remaining amounts to the Funds.

10. The Credit Facility Committee would allocate borrowing demand and cash available for lending among the Funds on what the Credit Facility Committee believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Fund's Board, including a majority of trustees who are not ''interested persons'' of the Fund, as defined in section 2(a)(19) of the Act (''Independent Trustees''), to ensure both borrowing and lending Funds participate on an equitable basis.

11. PBA and the Credit Facility Committee would (a) Monitor the interest rates charged and other terms and conditions of the Interfund Loans; (b) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations; (c) ensure equitable treatment of each Fund; and (d) make quarterly reports to the Board concerning any transactions by the Funds under the credit facility and the interest rates charged.

12. PBA, through the Credit Facility Committee, would administer the credit facility under its existing management or advisory agreement with each Fund and would receive no additional fee for its services. PBA or companies affiliated with it may collect fees in connection with repurchase and lending transactions generally, including transactions through the credit facility, for pricing and record keeping, bookkeeping and accounting services. Fees would be no higher than those applicable for comparable loan transactions.

13. Each Fund's participation in the credit facility is consistent with its organizational documents and its investment policies and limitations. The prospectus or statement of additional information (''SAI'') of each Fund discloses the extent to which the respective Fund is able to mortgage or pledge securities to secure permitted borrowings. If the requested order is granted, the SAI for each Fund participating in the credit facility will disclose the existence of the interfund lending arrangements.

14. In connection with the credit facility, applicants request an order under (a) Section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (d) under section 17(d) and rule 17d–1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having PBA as their common investment advisor.

2. Section 6(c) provides that an exemptive order may be granted where an 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. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with strong potential adverse interests to, and some influence over the investment decisions of, a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because: (a) PBA would administer the program as a disinterested fiduciary; (b) all Interfund Loans would consist only of uninvested cash reserves that the Funds otherwise would invest in short-term repurchase agreements or other short-term instruments; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) the lending Fund would receive interest at a rate higher than they could obtain through such other investments; and (e) the borrowing Fund would pay interest at a rate lower than otherwise available to them under their bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants state that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exemption is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1)(J) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid imposing on investors additional and duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed credit facility does not involve these abuses. Applicants note that there will be no

duplicative costs or fees to the Funds or shareholders, and that PBA will receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all of the participating Funds and their shareholders.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank; if immediately after the borrowing, there is asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined interfund and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated persons of an affiliated person, when acting as principal, from effecting any joint transactions in which the company participates unless the transaction is approved by the Commission. Rule 17d–1 provides that in passing upon applications filed under the rule, the Commission will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the credit facility is consistent with the provisions, policies, and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms that are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

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

1. The interest rates to be charged to the Funds under the credit facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, the Credit Facility Committee will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is (a) More favorable to the lending Fund than the Repo Rate, and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans made to the Fund (a) Will be made at an interest rate equal to or lower than any outstanding bank loan; (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral; (c) will have a maturity no longer than any outstanding bank loan (and in any event not over seven days); and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowing from all sources immediately after the interfund borrowing total 10% or less than its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the credit facility on a secured basis only. A Fund may not borrow through the credit facility or from any other source if its total borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter (a) Repay all its outstanding Interfund Loans; (b) reduce its outstanding indebtedness to 10% or less of its total assets; or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may lend to another Fund through the credit facility if the loan would cause the lending Fund's aggregate outstanding loans through the credit facility to exceed 15% of its net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. Except as set forth in this condition, no Fund may borrow through

the credit facility unless the Fund has a policy that prevents the Fund from borrowing for other than temporary or emergency purposes. In the case of a Fund that does not have such a policy, the Fund's borrowings through the credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Credit Facility Committee will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds. The Credit Facility Committee will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. PBA will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts to the Funds.

13. The Credit Facility Committee will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Board concerning the participation of the Funds in the facility and the terms and other conditions of any extensions of credit under the credit facility.

14. The Board of each Fund, including a majority of the Independent Trustees: (a) Will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Credit Facility Committee will promptly refer the loan for arbitration to an independent arbitrator selected by the Board of the Funds involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[2] The arbitrator will resolve any problems promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit at least annually a written report to the Boards setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, the rate of return available from investments in overnight repurchase agreements and such other information presented to the Board in connection with the review required by conditions 13 and 14.

17. PBA will prepare and submit to the Board for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of operations of the credit facility, the Credit Facility Committee will report on the operations of the credit facility to the Board quarterly. In addition, for two years following the commencement of the credit facility, the independent public accountants for each Fund shall prepare an annual report that evaluates PBA's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and filed pursuant to Item 77Q3 of Form N-SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the Application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan. After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its prospectus or its SAI all material facts about its intended participation.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–18526 Filed 7–21–03; 8:45 am]

BILLING CODE 8010–01–P

[2] If the dispute involves Funds with separate Boards, the Board of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48173; File No. SR–Amex–2003–59]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC To Renumber Commentary .02 to Rule 131 and Amend a Reference Thereto in Commentary .06 to Rule 155

July 14, 2003.

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 June 10, 2003, the American Stock Exchange LLC (''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 Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(3) thereunder,[4] which renders the proposal effective upon filing with the Commission. On June 12, 2003, the

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(3).