in the minute books of the appropriate Fund of Funds.

8. With respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in NASD Conduct Rule 2830, if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

9. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more affiliated investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

10. The Board of any Fund of Funds will satisfy the fund governance standards as defined in rule 0–1(a)(7) under the Act (''Governance Standards'') by the earlier of the date of reliance on the order or the date on which the Fund of Funds executes a Participation Agreement.

The Board of any Unaffiliated Fund will satisfy the Governance Standards by the date on which the Unaffiliated Fund executes a Participation Agreement.

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

Nancy M. Morris,

Secretary.

[FR Doc. E6–7259 Filed 5–11–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27314; 812–13157]

Vanguard Index Funds, et al.; Notice of Application

May 5, 2006.

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

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

Summary of the Application: The order would permit certain registered management investment companies and unit investment trusts to acquire shares of other registered open-end management investment companies that issue an exchange-traded class of shares and that are within or outside the same group of investment companies. The order would also amend a condition in two prior orders.

Applicants: Vanguard Index Funds, Vanguard International Equity Index Funds, Vanguard World Funds, Vanguard Specialized Funds (collectively, the ''Trusts''), The Vanguard Group, Inc. (''VGI'') and Vanguard Marketing Corporation (''VMC'').

DATES: *Filing Dates:* The application was filed on January 21, 2005, and amended on August 4, 2005 and March 17, 2006. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in the 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 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 May 30, 2006, 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, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, P.O. Box 2600, Mail Stop V26, Valley Forge, PA 19482.

FOR FURTHER INFORMATION CONTACT: Keith A. Gregory, Senior Counsel, at (202) 551–6815, and Michael W. Mundt, Senior Special Counsel, at (202) 551–6821 (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, 100 F Street, NE., Washington, DC 20549–0102 (tel. (202) 551–5850).

Applicants' Representations

1. The Trusts are open-end management investment companies registered under the Act and organized as Delaware statutory trusts. Each of the Trusts has, or intends to have, at least one portfolio that issues a class of exchange-traded shares known as ''VIPER Shares'' (such portfolios referred to as ''VIPER Funds'').[1] VGI is a Pennsylvania corporation that is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and provides advisory services to each of the VIPER Funds. VMC, a wholly owned subsidiary of VGI, is a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'') and provides all distribution and marketing services to the VIPER Funds.

2. Applicants request an exemption to permit: (i) Certain management investment companies and unit investment trusts (''Investing Funds'') to acquire shares of a VIPER Fund beyond the limitations in section 12(d)(1)(A), and (ii) a VIPER Fund to sell its shares, or VMC or a broker-dealer registered under the Exchange Act (''Broker'') to sell a VIPER Fund's shares, to an Investing Fund beyond the limits of section 12(d)(1)(B).[2] Applicants also seek an exemption from section 17(a) of

[1] VIPER Funds created in the future, or existing investment companies that commence issuing VIPER Shares in the future may be organized as portfolios of registrants other than the Trusts that are parties to the application. Future VIPER Funds that rely on the requested order will (i) be open-end management investment companies in the same ''group of investment companies,'' within the meaning of section 12(d)(1)(G)(ii) of the Act, as the existing VIPER Funds, (ii) be advised by VGI, and (iii) comply with the terms and conditions of the application.

[2] VIPER Funds issue multiple classes of shares including the VIPER Shares, and the relief requested in the application would apply to all share classes issued by a VIPER Fund, not just VIPER Shares. However, applicants expect Investing Funds to purchase VIPER Shares, not any of the other share classes issued by the VIPER Funds.

the Act to permit a VIPER Fund to sell its shares to, and redeem its shares from, an Investing Fund of which the VIPER Fund is an affiliated person, or an affiliated person of an affiliated person.[3]

3. Investing Funds may be investment companies within the Vanguard group of investment companies (''Investing Vanguard Funds'') or outside the Vanguard group of investment companies (''Investing Non-Vanguard Funds'').[4] Investing Funds that are organized as management investment companies are referred to as ''Investing Management Companies.'' Investing Management Companies that are not part of the Vanguard group of investment companies are referred to as ''Investing Non-Vanguard Management Companies.'' Investing Funds that are unit investment trusts are referred to as ''Investing UITs.'' Each Investing Management Company will be advised by an investment adviser that is registered under the Advisers Act or exempt from registration (''Advisor'') and may be advised by investment adviser(s) within the meaning of section 2(a)(20)(B) of the Act (each, a ''Subadvisor''). Each Investing UIT will have a Sponsor (''Sponsor'').

4. Applicants state that the VIPER Funds will offer the Investing Funds simple and efficient vehicles to achieve their asset allocation, diversification, and other investment objectives and to implement various investment strategies. Among other purposes, applicants assert that the VIPER Funds provide highly liquid exposure to a broad range of markets, sectors, and geographic regions, and permit investors to achieve such exposure through a single transaction instead of the many transactions that might otherwise be needed to obtain comparable market exposure.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any Broker from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Section 12(d)(1)(J) 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 provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

2. Applicants assert that the proposed transactions will not lead to any of the abuses that section 12(d)(1) was designed to prevent. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

3. Applicants state that the proposed arrangement will not result in undue influence by an Investing Non-Vanguard Fund or its affiliates over a VIPER Fund. To limit the control that an Investing Non-Vanguard Fund may have over a VIPER Fund, applicants propose a condition prohibiting the Investing Non-Vanguard Fund's Advisor or Sponsor; any person controlling, controlled by, or under common with the Investing Non-Vanguard Fund's Advisor or Sponsor, and any investment company and any issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Non-Vanguard Fund's Advisor or advised or sponsored by the Sponsor, or any person controlling, controlled by, or under common control with the Investing Non-Vanguard Fund's Advisor or Sponsor (''Investing Non-Vanguard Fund's Advisory Group'') from controlling (individually or in the aggregate) a VIPER Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Investing Non-Vanguard Fund's Subadvisor; any person controlling, controlled by, or under common control with the Investing Non-Vanguard Fund's Subadvisor; and any investment company and any issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) that is advised or sponsored by the Investing Non-Vanguard Fund's Subadvisor or any person controlling, controlled by, or under common control with the Investing Non-Vanguard Fund's Subadvisor (''Investing Non-Vanguard Fund's Subadvisory Group'').

4. To limit further the potential for undue influence by an Investing Non-Vanguard Fund over a VIPER Fund, applicants propose conditions 2 through 7, stated below, to preclude an Investing Non-Vanguard Fund and certain of its affiliates from taking advantage of a VIPER Fund and certain VIPER Fund affiliates with respect to transactions between the entities and to ensure the transactions will be on an arm's length basis. Applicants note that a VIPER Fund may choose to reject any direct purchase of VIPER Shares by an Investing Fund.[5]

5. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of each Investing Management Company, including a majority of the disinterested directors or trustees, before approving any advisory contract under section 15 of the Act, will be required to determine that the advisory fees charged to the Investing Management Company are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any VIPER Fund in which the Investing Management Company may invest. In addition, the Advisor, trustee or Sponsor of an Investing Non-Vanguard Fund, as applicable, will waive fees otherwise payable to it by the Investing Non-Vanguard Fund in an amount at least equal to any compensation received from a VIPER Fund by the Advisor, trustee or Sponsor, or an affiliated person of the Advisor, trustee or Sponsor (other than any advisory fees), in connection with the investment by the Investing Non-Vanguard Fund in the VIPER Funds. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds set forth in Conduct Rule 2830 of National Association of Securities Dealers (''NASD Conduct Rules'').

6. Applicants submit that the proposed arrangement will not create an overly complex fund structure.

[3] 3 Applicants expect that the VIPER Shares generally will be purchased in the secondary market through Brokers and would not involve a sale by the VIPER Funds or VMC.

[4] All investment companies that currently intend to rely on the requested order are named as applicants. Any other investment company that relies on the order in the future will comply with the terms and conditions of the application. An Investing Non-Vanguard Fund may rely on the requested order only to invest in the VIPER Funds and not in any other registered investment company.

[5] A VIPER Fund would retain its right to reject any initial investment by an Investing Non-Vanguard Fund in excess of the limits in section 12(d)(1)(A) by declining to execute an Investing Agreement (as defined below) with the Investing Non-Vanguard Fund.

Applicants note that a VIPER Fund will be prohibited from acquiring securities of any investment company, or of any company relying on sections 3(c)(1) or 3(c)(7) of the Act, in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by an exemptive order that allows the VIPER Fund to purchase shares of an affiliated money market fund for short-term cash management purposes.

7. To ensure that Investing Non-Vanguard Funds are aware of the terms and conditions of the requested order, the Investing Non-Vanguard Funds must enter into an agreement with the respective VIPER Funds (''Investing Agreement''). The Investing Agreement will include an acknowledgement from the Investing Non-Vanguard Fund that it may rely on the order only to invest in the VIPER Funds and not in any other investment company. The Investing Agreement will further require any Non-Vanguard Investing Fund that exceeds the 5% or 10% limitations in section 12(d)(1)(A)(ii) and (iii) to disclose in its prospectus the unique characteristics of the Investing Funds investing in investment companies, including but not limited to the expense structure and any additional expenses of investing in investment companies.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company or an affiliated person of such person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person, and any person directly or indirectly controlling, controlled by, or under common control with the other person. Applicants request an exemption to permit a VIPER Fund that is an affiliated person of an Investing Fund to sell its shares to and purchase its shares from an Investing Fund.

2. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if evidence establishes that (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act 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.

3. Applicants submit that the proposed arrangement satisfies the standards for relief under sections 17(b) and 6(c) of the Act. Applicants submit that the proposed transactions are appropriate in the public interest, consistent with the protection of investors, and do not involve overreaching. Applicants note that the consideration paid for the purchase or received for the redemption of shares directly from a VIPER Fund by an affiliated Investing Fund (or any other investor) will be based on the net asset value of the shares of the VIPER Funds. Applicants also state that the proposed transactions will be consistent with the policies of each Investing Fund and VIPER Fund and with the general purposes of the Act. Applicants state that the Investing Agreement will require an Investing Non-Vanguard Fund to represent that its ownership of shares issued by a VIPER Fund is consistent with the investment policies set forth in the Investing Non-Vanguard Fund's registration statement.

C. Prior Orders

Applicants also seek to amend a condition to certain prior exemptive orders (''Prior Orders'') so that the condition is consistent with the relief requested from section 12(d)(1).[6] Existing condition 2 to each of the Prior Orders currently provides that each VIPER Shares prospectus (''VIPER Shares Prospectus'') and Product Description will clearly disclose that, for purposes of the Act, VIPER Shares are issued by the VIPER Fund and that the acquisition of VIPER Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.[7] In light of the requested order to permit Investing Funds to invest in VIPER Funds in excess of the limits of section 12(d)(1), applicants wish to replace this condition in the Prior Orders with condition 14, as stated below. Under the new condition, each VIPER Shares Prospectus and Product Description will disclose that Investing Funds may purchase shares of the VIPER Funds in excess of the limits of section 12(d)(1) to the extent that they comply with the terms and conditions of the requested order granting relief from section 12(d)(1).

Applicants' Conditions

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

1. The members of the Investing Non-Vanguard Fund's Advisory Group will not control (individually or in the aggregate) a VIPER Fund within the meaning of Section 2(a)(9) of the Act. The members of the Investing Non-Vanguard Fund's Subadvisory Group will not control (individually or in the aggregate) a VIPER Fund within the meaning of Section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a VIPER Fund, an Investing Non-Vanguard Fund's Advisory Group or Investing Non-Vanguard Fund's Subadvisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a VIPER Fund, it will vote its shares of the VIPER Fund in the same proportion as the vote of all other holders of the VIPER Fund's shares. This condition does not apply to the Investing Non-Vanguard Fund's Subadvisory Group with respect to a VIPER Fund for which the Subadvisor or a person controlling, controlled by, or under common control with the Subadvisor, acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Non-Vanguard Fund or Investing Non-Vanguard Fund Affiliate will cause any existing or potential investment by the Investing Non-Vanguard Fund in a VIPER Fund to influence the terms of any services or transactions between the Investing Non-Vanguard Fund or Investing Non-Vanguard Fund Affiliate and a VIPER Fund or a VIPER Fund Affiliate. An ''Investing Non-Vanguard Fund Affiliate'' means an Investing Non-Vanguard Fund's Advisor, Subadvisor, Sponsor, promoter, or principal underwriter, or any person controlling, controlled by, or under common control with any of those entities. A ''VIPER Fund Affiliate'' means a VIPER Fund's investment adviser(s), promoter or principal underwriter and any person controlling, controlled by, or under common control with any of those entities.

3. The board of directors or trustees of an Investing Non-Vanguard

[6] The Prior Orders are Vanguard International Equity Index Funds, *et al.*, Investment Company Act Release Nos. 26246 (Nov. 3, 2003) (notice) and 26281 (Dec. 1, 2003) (order) and Vanguard Index Funds, *et al.*, Investment Company Act Release Nos. 24680 (Oct. 6, 2000) (notice) and 24789 (Dec. 12, 2000) (order).

[7] A ''Product Description'' is a document that provides a plain English overview of VIPER Shares and the VIPER Fund that issues them. The Product Description is delivered by broker-dealers to secondary market purchases of VIPER Shares.

Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to assure that the Advisor and any Subadvisor are conducting the investment program of the Investing Non-Vanguard Management Company without taking into account any consideration received by the Investing Non-Vanguard Management Company or an Investing Non-Vanguard Fund Affiliate from a VIPER Fund or a VIPER Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Non-Vanguard Fund in the securities of a VIPER Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the board of directors or trustees of the VIPER Fund, including a majority of the disinterested board members, will determine that any consideration paid by the VIPER Fund to the Investing Non-Vanguard Fund or an Investing Non-Vanguard Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the VIPER Fund; (ii) is within the range of consideration that the VIPER Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions: and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a VIPER Fund and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Investing Non-Vanguard Fund or Investing Non-Vanguard Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a VIPER Fund) will cause a VIPER Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an officer, director, member of an advisory board, Advisor, Subadvisor, employee, or Sponsor of the Investing Non-Vanguard Fund, or a person of which any such officer, director, member of an advisory board, Advisor, Subadvisor, employee, or Sponsor is an affiliated person (each, an ''Underwriting Affiliate,'' except any person whose relationship to the VIPER Fund is covered by Section 10(f) of the Act is not an Underwriting Affiliate). An offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate is an ''Affiliated Underwriting.''

6. The board of a VIPER Fund, including a majority of the disinterested board members, will adopt procedures reasonably designed to monitor any purchases of securities by the VIPER Fund in an Affiliated Underwriting, once an investment by an Investing Non-Vanguard Fund in the securities of the VIPER Fund exceeds the limit in Section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The board of the VIPER Fund will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Non-Vanguard Fund in the VIPER Fund. The board of the VIPER Fund will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the VIPER Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the VIPER Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The board of the VIPER Fund will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. The VIPER Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the VIPER Fund exceeds the limit of Section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the determinations of the board of the VIPER Fund were made.

8. Before investing in a VIPER Fund in excess of the limits in Section 12(d)(1)(A), each Investing Non-Vanguard Fund and the VIPER Fund will execute an agreement stating, without limitation, that their boards of directors or trustees and their investment advisers, or Sponsor and trustee, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in shares of a VIPER Fund in excess of the limit in Section 12(d)(1)(A)(i), an Investing Non-Vanguard Fund will notify the VIPER Fund of the investment. At such time, the Investing Non-Vanguard Fund will also transmit to the VIPER Fund a list of each Investing Non-Vanguard Fund Affiliate and Underwriting Affiliate. The Investing Non-Vanguard Fund will notify the VIPER Fund of any changes to the list of names as soon as reasonably practicable after a change occurs. The VIPER Fund and the Investing Non-Vanguard Fund will maintain and preserve a copy of the order, the agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under Section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such advisory contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any VIPER Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

10. The Advisor, trustee or Sponsor, as applicable, will waive fees otherwise payable to it by an Investing Non-Vanguard Fund, in an amount at least equal to any compensation received from a VIPER Fund by the Advisor, trustee or Sponsor, or an affiliated person of the Advisor, trustee or Sponsor, other than any advisory fees paid to the Advisor, trustee or Sponsor or its affiliated person by the VIPER Fund, in connection with the investment by the Investing Non-Vanguard Fund in the VIPER Fund. Any Subadvisor will waive fees otherwise payable to the Subadvisor, directly or indirectly, by the Investing Non-Vanguard Management Company in an

amount at least equal to any compensation received from a VIPER Fund by the Subadvisor or an affiliated person of the Subadvisor, other than any advisory fees paid to the Subadvisor or its affiliated person by the VIPER Fund, in connection with the investment by the Investing Non-Vanguard Management Company in the VIPER Fund made at the direction of the Subadvisor. In the event that the Subadvisor waives fees, the benefit of the waiver will be passed through to the Investing Non-Vanguard Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in Conduct Rule 2830 of the National Association of Securities Dealers.

12. No VIPER Fund will acquire securities of any investment company, or of any company relying on Sections 3(c)(1) or 3(c)(7) of the Act, in excess of the limits contained in Section 12(d)(1)(A) of the Act, except to the extent permitted by an exemptive order that allows the VIPER Fund to purchase shares of an affiliated fund for short-term cash management purposes.

13. The board of any Investing Management Company and any VIPER Fund will satisfy the fund governance standards as defined in Rule 0–1(a)(7) under the Act by the date on which the Investing Non-Vanguard Management Company and the VIPER Fund execute an Investing Agreement.

Amendment to Prior Orders

Applicants agree to replace condition 2 of the Prior Orders with the following condition:

14. Each VIPER Shares Prospectus and Product Description will clearly disclose that, for purposes of the Act, VIPER Shares are issued by a VIPER Fund, which is a registered investment company, and that the acquisition of VIPER Shares by investment companies is subject to the restrictions of Section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in a VIPER Fund beyond the limits of Section 12(d)(1), subject to certain terms and conditions.

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

Nancy M. Morris,

Secretary.

[FR Doc. E6–7258 Filed 5–11–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53763; File No. 4–208]

Intermarket Trading System; Notice of Filing and Immediate Effectiveness of the Twenty Third Amendment to the ITS Plan Relating to the Interaction of Chicago Stock Exchange, Inc. With ITS, the Change in Opening of Trading in a Halted Security, and the Change in Name from the New York Stock Exchange, Inc. to New York Stock Exchange LLC and From Pacific Exchange, Inc. to NYSE Arca, Inc.

May 5, 2006.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 thereunder,[2] notice is hereby given that on April 24, 2006, the ITS Participants, through the ITS Operating Committee, submitted to the Securities and Exchange Commission (''Commission'') a proposed amendment (''Twenty Third Amendment'') to the restated ITS Plan.[3] The purpose of the Twenty Third Amendment is to recognize the manner in which Chicago Stock Exchange, Inc. (''CHX'') will interact with ITS, to allow Participant markets to open trading in a halted security after a shorter period of time after a re-indication, and to reflect the name changes from the New York Stock Exchange, Inc. to New York Stock Exchange LLC and from Pacific Exchange, Inc. to NYSE Arca, Inc. Pursuant to Rule 608(b)(3)(ii) under the Act,[4] the ITS Participants designated the amendment as concerned solely with the administration of the Plan. As a result, the Twenty Third Amendment has become effective upon filing with the Commission.[5] At any time within 60 days of the filing of the amendment, the Commission may summarily abrogate the amendment and require that such amendment be refiled in accordance with paragraph (a)(1) of Rule 608 and reviewed in accordance with paragraph (b)(2) of Rule 608, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act. The Commission is publishing this notice to solicit comments from interested persons.

I. Description and Purpose of the Proposed Amendment

A. CHX's Interaction With ITS

The ITS Participants propose to amend the restated ITS Plan to eliminate all references to CHX in Section 6(a)(ii)(A) and to add new subparagraph (H) to section 6(a)(ii). Proposed new language is *italicized*:

(H) Description Applicable to CHX

With respect to an ITS transaction that involves a CHX member, the commitment to trade or response thereto destined for or originating with the CHX will leave and enter the System at the CHX. A trade involving the CHX would take place as follows. In the example in section 6(a)(ii)(A) above, assume that the order is for 300 shares. Assume also that when the NYSE member checks the continuously updated quotation display at the appropriate NYSE trading post, he sees that the best offer is one of 40.15 for 300 shares from the CHX. Having learned this information, the NYSE member may decide to attempt to buy the 300 shares for his customer from the 40.15 offer. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to the CHX a commitment to buy 300 shares of the stock at 40.15.

When the commitment to buy is entered into the System, the System will route the commitment to the CHX. If the 40.15 offer is still available when the commitment to buy reaches the CHX, or if a better offer is available and if the rules of the CHX permit an execution at that price, then the CHX would generate an acceptance of the commitment on behalf of the one or more CHX members responsible for the 40.15 offer (or the better offer) and route it to the System. The execution would occur at 40.15 (or at the better price) if the applicable time period had not expired. CHX would report the trade to the CTA Plan Processor for dissemination under the CTA Plan at 40.15 (or at the better price)

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] The ITS Plan is a National Market System (''NMS'') plan, which was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets. See Securities Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938 (February 3, 1983).

The ITS Participants currently include the American Stock Exchange LLC (Amex''), the Boston Stock Exchange, Inc. (''BSE''); the Chicago Boad Options Exchange, Inc. (''CBOE''); the Chicago Stock Exchange (''CHX''), Inc., the National Stock Exchange (''NSX''), the National Association of Securities Dealers, Inc. (''NASD''), NASDAQ Stock Market LLC (''NASDAQ''), the New York Stock Exchange, Inc. (''NYSE''), the Pacific Exchange, Inc. (''PCX''), and the Philadelphia Stock Exchange, Inc. (''Phlx'') (''Participants'').

[4] 17 CFR 242.608(b)(3)(ii).

[5] CHX intends to give ITS Participants 10 days notice prior to implementation of the amended manner of CHX's interaction with ITS.