

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29660 ; 812-13736]

HighMark Capital Management, Inc., et al., Notice of Application

April 26, 2011

Agency: Securities and Exchange Commission (“Commission”).

Action: Notice of application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the “Act”) for an exemption from section 17(a) of the Act.

Applicants: HighMark Capital Management, Inc. (“HCM” or “Adviser”),¹ HighMark Funds (each series of HighMark Funds a “Current Fund,” collectively, the “Current Funds”),² any existing or future registered management investment companies and their series that are advised or subadvised by the Adviser (“Future Funds,” Future Funds and Current Funds are collectively the “Funds”),³ and Morgan Stanley & Co., Inc. (“MS & Co.”).

Summary of Application: Applicants request an order to permit the Funds to engage in principal transactions in certain money market instruments with MS & Co.

¹ Applicants also seek relief for any other existing or future registered investment adviser which acts as investment adviser or subadviser to a Fund (defined below) and which controls, is controlled by or is under common control (as defined in section 2(a)(9) of the Act) with HCM (individually a “Future Adviser” and collectively the “Future Advisers”). HCM and the Future Advisers are referred to individually as an “Adviser” and collectively as the “Advisers.” HCM is the only Adviser that currently intends to rely on the requested order. Any other Adviser that relies on the order in the future will comply with the terms and conditions of the application.

² HighMark Funds offers five series that operate as money market funds subject to rule 2a-7 under the 1940 Act: HighMark 100% U.S. Treasury Money Market Fund, HighMark California Tax-Free Money Market Fund, HighMark Diversified Money Market Fund, HighMark Treasury Plus Money Market Fund and HighMark U.S. Government Money Market Fund (each a “Money Market Fund”).

³ Any existing or future Funds which are money market funds subject to rule 2a-7 and authorized to invest in Money Market Instruments (as defined below) are also “Money Market Funds.” Any Fund that currently intends to rely on the requested order is named as an applicant in the application. Any other Fund that relies on the order in the future will comply with the terms and conditions of the application.

Filing Dates: The application was filed on December 28, 2009, and amended on June 18, 2010, and March 25, 2011. 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 May 23, 2011, and should be accompanied by proof of service on the 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 may request notification of a hearing by writing to the Commission's Secretary.

Addresses: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090. Applicants: c/o Karen Seaman, Esq., Union Bank, N.A., 400 California Street, 16th Floor, San Francisco, CA 94104.

For Further Information Contact: Bruce R. MacNeil, Senior Counsel, (202) 551-6817 or Janet M. Grossnickle, Assistant Director, (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 via the Commission's website by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Applicants' Representations:

1. HighMark Funds, an open-end management company registered under the Act, is organized as a Massachusetts business trust and is comprised of multiple series that are Funds. HCM, an investment adviser registered under the Investment Advisers Act of 1940, is a California corporation and an indirect wholly-owned subsidiary of Mitsubishi UFJ Financial Group, Inc. ("Mitsubishi UFJ"). Each Fund has an investment advisory agreement with the Adviser pursuant to which the Adviser provides investment advisory and management services. MS & Co., a broker-dealer registered under the Securities Exchange Act of 1934 (the "1934 Act") is a primary dealer in U.S. Government securities and one of the largest dealers in the United States in commercial paper, repurchase agreements and other money market instruments. Applicants state that Mitsubishi UFJ currently holds an approximately 21% interest in Morgan Stanley ("MS"). MS & Co. is a wholly owned subsidiary of MS.

2. Applicants state that HCM and MS & Co. are functionally independent of each other and operate as completely separate entities. While MS & Co. and HCM could be deemed second-tier affiliates through their relationship with Mitsubishi UFJ, each entity has its own separate officers and employees, is separately capitalized, maintains its own separate books and records and operates on different sides of walls of separation with respect to the Funds and Money Market Instruments. HCM also maintains offices physically separate from MS & Co.

3. Investment decisions for the Funds are determined solely by the Adviser. The portfolio managers and other employees that are responsible for the investment of the Funds are employed solely by the Adviser (and not MS & Co.), and have lines of reporting responsibility solely within the Adviser. The compensation of personnel assigned to an Adviser will not

depend on the volume or nature of trades with MS & Co., except to the extent that such trades may affect the profits and losses of Mitsubishi UFJ and its affiliates as a whole.

4. As used in the application, the term Taxable Money Market Instruments refers to taxable securities which are eligible for purchase by money market funds under rule 2a-7, including short-term U.S. Government securities, short-term U.S. Government agency securities, bank money market instruments, bank notes, commercial paper other short-term fixed income instruments and repurchase agreements. The term Tax-Exempt Money Market Instruments refers to tax-exempt securities which are eligible for purchase by money market funds under rule 2a-7, including conventional municipal notes, tax-exempt commercial paper, variable rate demand notes, put bonds and flexible notes. Money Market Instruments consist of Taxable and Tax-Exempt Money Market Instruments. Each Fund that is not a Money Market Fund is authorized to invest in Taxable Money Market Instruments pursuant to its investment objectives and policies.

5. Trading in Money Market Instruments generally takes place in over-the-counter markets consisting of groups of dealers who are primarily major securities firms or large commercial banks. The money market consists of sophisticated and elaborate telephonic and electronic communications networks among buyers and sellers, which generally precludes being able to obtain a single market price for a given instrument at any given time. Applicants state that the money market (for both Taxable and Tax-Exempt Money Market Instruments) tends to be somewhat segmented. The markets for the different types of instruments will vary in terms of price, volatility, liquidity and availability. With respect to any given type of security or instrument, there may be only a few dealers who can be expected to have the security in inventory and be in a position to quote a favorable price. Applicants also state that different

dealers may quote different prices with respect to the same type of instrument because of differing outlooks on future yields, to adjust their inventory or because of competitive pressure (or the lack thereof) to meet other dealers' quotes. Only customers of a dealer may obtain quotations for Money Market Instruments and trade on them.

6. MS & Co. is one of the world's largest dealers in Taxable Money Market Instruments, ranking among the top firms in each of the major markets and product areas. As of December 31, 2010, MS & Co. had become the fourth largest dealer in terms of the number of existing U.S. asset-backed commercial paper programs, the most significant part of the commercial paper market by outstanding dollar amounts. Applicants believe that MS & Co. is one of the ten leading dealers in the repurchase agreement market. From January 2010 to December 2010, MS & Co.'s aggregate month-end principal balance for repurchase agreements and reverse repurchase agreements ranged from approximately \$240 billion to approximately \$337 billion. MS & Co. is an active participant in the public auction market for U.S. Treasuries, being one of only 20 primary dealers and receiving on average from 0.04% to 5.34% of the primary distribution of U.S. Treasuries during January through December 31, 2010. In secondary trading, MS & Co. ranked as one of the top four primary dealers for U.S. Treasuries with maturities of three to six years and with maturities under three years for seven of the last eight quarters (through the fourth quarter of 2010). MS & Co. also has been an active participant in the secondary market for government agency securities and ranked ninth in underwriting primary issuances in 2010.

7. MS & Co. also is a major participant in both the primary new issue market and in the secondary dealer market for Tax-Exempt Money Market Instruments. MS & Co. estimates that its market share in the new issue market for Tax-Exempt Money Market Instruments

included 8.6% of conventional notes, 10% of tax-exempt commercial paper and 7.2% of variable rate demand notes for the period January 1, 2010 through December 31, 2010. Applicants state that there is no comprehensive information published as to the dollar amount and volume of secondary market transactions executed in Tax-Exempt Money Market Instruments. However, MS & Co. believes that it is generally one of the top five secondary market dealers in Tax-Exempt Money Market Instruments. Based upon MS & Co. estimates, MS & Co. was responsible for 9% of the trading volume in variable rate demand notes and tax-exempt commercial paper among MS & Co. and nine other leading dealers as of January 1, 2011. MS & Co. estimates its market share in the put bonds market at 15.7% as of December 31, 2010.

8. Applicants state that over the past few years, the growth in Money Market Instruments has been substantially outpaced by the growth in portfolios which purchase Money Market Instruments, which has contributed to the limited availability of Money Market Instruments to the Funds.⁴ Applicants further state that because of consolidation in the money market industry, there is a substantially smaller number of major dealers who are active in the money market than was the case a decade ago. Applicants state that MS & Co. has remained committed to the taxable and tax-exempt money market, and has moved to fill the void left by departing dealers. As the number of dealers with whom the Funds can transact business has decreased, it has become even more important for the Funds to have meaningful access to all of the major dealers in Money Market Instruments in order to diversify each Fund's investments, to maintain portfolio liquidity, and to increase opportunities for obtaining best price and execution with respect to portfolio trades.

⁴ Applicants state that from 2000 through 2010, the growth of the market in Tax-Exempt Money Market Instruments was 119% , while the growth of Taxable Money Market Instruments was 143%.

9. Subject to the general supervision of the board of trustees of the Funds (“Board”), the Adviser is responsible for making investment decisions and for the placement of portfolio transactions. The Funds have no obligation to deal with any dealer or group of dealers in the execution of their portfolio transactions. When placing orders, the Adviser must attempt to obtain the best net price and the most favorable execution of its orders. In doing so, it takes into account such factors as price, the size, type and difficulty of the transaction involved and the dealer’s general execution and operational facilities. The transaction costs of the Funds with respect to Money Market Instruments consist primarily of dealer or underwriter spreads. Spreads vary some based on the type of money market security or the occurrence of turbulent market conditions, but generally spread levels for Taxable Money Market Instruments are in the range of 1 to 5 basis points (.01% to .05%), while spreads for Tax-Exempt Money Market Instruments typically are not greater than 12.5 basis points (0.125%).

Applicants’ Legal Analysis:

1. Applicants request an order pursuant to sections 6(c) and 17(b) of the Act exempting certain transactions from the provisions of section 17(a) of the Act to permit MS & Co., acting as principal, (a) to sell or purchase Taxable Money Market Instruments to or from the Funds; and (b) to sell or purchase Tax-Exempt Money Market Instruments to or from the Money Market Funds, subject to the conditions set forth below.

2. Section 17(a) of the Act generally prohibits an affiliated person or principal underwriter of a registered investment company, or any affiliated person of that person (“second-tier affiliate”), acting as principal, from selling to or purchasing from the registered company, or any company controlled by the registered company, any security or other property. Because Mitsubishi UFJ could be deemed to control the Funds, and Mitsubishi UFJ indirectly owns 21%

of MS & Co., the Funds and MS & Co. could be deemed second-tier affiliates, and the Funds could be prohibited from conducting portfolio transactions with MS & Co. in transactions in which MS & Co. acts as principal.

3. Section 17(b) of the Act provides that the Commission, upon application, may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair, and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Section 6(c) provides that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants note the following in support of the requested relief:

(a) With over \$5 billion invested in Money Market Instruments, the Funds have a strong need for access to large quantities of high quality Money Market Instruments. The applicants believe that access to a major dealer as MS & Co. in this market increases the Funds' ability to obtain suitable portfolio securities.

(b) The policy of the Funds that are money market and fixed income funds of investing in securities with short maturities combined with the active portfolio management techniques employed by the Advisers results in a high level of portfolio activity and the need to make numerous purchases and sales of Money Market Instruments. This high level of portfolio

activity emphasizes the importance of increasing opportunities to obtain suitable portfolio securities and best price and execution.

(c) The taxable and tax-exempt money market, including the market for repurchase agreements, is highly competitive, and maintaining a dealer as prominent as MS & Co. in the pool of dealers with which the Funds could conduct principal transactions may provide the Funds with opportunities to purchase and sell Money Market Instruments, including those not available from any other source.

(d) MS & Co. is such a major factor in the tax-exempt and taxable money market that being unable to deal directly with MS & Co. may indirectly deprive the Funds of obtaining best price and execution even when the Funds trade with unaffiliated dealers.

5. Applicants believe that the requested order will provide the Funds with a broader and more complete access to the money market (both taxable and non-taxable) which is necessary to carry out the policies and objectives of each of the Funds in obtaining the best price, execution and quality in all portfolio transactions, and will provide the Funds with important new information sources in the taxable and tax-exempt money market, to the direct benefit of investors in the Funds. Applicants believe that the transactions contemplated by the application are identical to those in which they are currently engaged except for the proposed participation of MS & Co. and that such transactions are consistent with the policies of the Funds as recited in their registration statements and reports filed under the Act. Applicants further believe that the conditions below and the procedures to be followed with respect to transactions with MS & Co. are structured in such a way as to ensure that the transactions will be, in all instances, reasonable and fair, will not involve overreaching on the part of any person concerned, and that the

requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions:

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

1. The exemption shall be applicable to principal transactions in the secondary market and primary or secondary fixed price dealer offerings not made pursuant to underwriting syndicates. With respect to Tax-Exempt Money Market Instruments, principal purchase or sale transactions will be conducted only in Money Market Instruments that are First Tier Securities as defined in rule 2a-7(a)(14)(i) under the Act. With respect to Taxable Money Market Instruments, the principal purchase or sale transactions which may be conducted pursuant to the exemption will be limited to transactions in Eligible Securities.⁵ Notwithstanding the foregoing, if a Fund purchases a Money Market Instrument meeting the above requirements from MS & Co. and, subsequent to such purchase the security becomes no longer an Eligible Security, the Fund may sell the security to MS & Co. in a manner consistent with the requirements of rule 2a-7(c)(7)(i)(B). To the extent a Fund is subject to rule 2a-7, such Eligible Securities must meet the portfolio maturity and quality requirements of paragraphs (c)(2) and (c)(3) of rule 2a-7. To the extent a Fund is not subject to rule 2a-7, such Eligible Securities must meet the requirements of clauses (i), (iii) and (iv) of paragraph (c)(3) of rule 2a-7. Additionally:

- (a) No Fund shall make portfolio purchases pursuant to the exemption that would result directly or indirectly in the Fund investing pursuant to the exemption more than 2% of its Total Assets (or, in the case of a Fund that is not subject to rule 2a-7, more than 2%

⁵ Italicized terms are defined as set forth in paragraph (a) of rule 2a-7 under the Act, unless otherwise indicated.

of the total of its cash, cash items and Eligible Securities) in securities which, when acquired by the Fund (either initially or upon any subsequent rollover) are Second Tier Securities; provided that any Fund may make portfolio sales of Second Tier Securities pursuant to the exemption without regard to this limitation.

(b) The exemption shall not apply to an Unrated Security other than a Government Security.

(c) The Funds may engage in repurchase agreements with MS & Co. only if MS & Co. has: (i) net capital, as defined in rule 15c3-1 under the 1934 Act, of at least \$100 million and (ii) a record (including the record of predecessors) of at least five years continuous operations as a dealer during which time it engaged in repurchase agreements relating to the kind of security subject to the repurchase agreement. MS & Co. shall furnish the Advisers with financial statements for its most recent fiscal year and the most recent semi-annual financial statements made available to its customers. The Advisers shall determine that MS & Co. complies with the above requirements and with other repurchase agreement guidelines adopted by the Board. Each repurchase agreement will be Collateralized Fully.

(d) The exemption shall not apply to any purchase or sale of any security, other than a repurchase agreement, issued by MS, Mitsubishi UFJ or any affiliated person of MS or Mitsubishi UFJ or to any security subject to a Demand Feature or Guarantee issued by MS, Mitsubishi UFJ or any affiliated person of MS or Mitsubishi UFJ. For purposes of this requirement, MS and Mitsubishi UFJ will not be considered to be the issuer of a Demand Feature or Guarantee solely by reason of the fact that MS & Co. or an affiliate thereof serves as a remarketing agent for a Money Market Instrument.

2. The relevant Adviser (unless the Board decides that the Fund should make these determinations) will determine with respect to each principal transaction conducted by a Fund pursuant to the order, based upon the information reasonably available to the Funds and the Advisers, that the price available from MS & Co. is at least as favorable to the Fund as the prices obtained from two other dealer bids in connection with securities falling within the same category of instrument, quality and maturity (but not necessarily the identical security or issuer) (“price test”). In the case of “Swaps” involving trades of one security for another, the price test shall be based upon the transaction viewed as a whole and not upon the two components thereof individually. With respect to each transaction involving repurchase agreements, the relevant Adviser will determine (unless the Board decides that the Fund should make these determinations), based upon the information reasonably available to the Fund and the Adviser, that the income to be earned from the repurchase agreement is at least equal to that available from other sources. In the case of variable rate demand notes, for which dealer bids are not ordinarily available, the Funds will only undertake purchases and sales where the rate of interest to be earned from the variable rate demand note is at least equal to that of variable rate demand notes of comparable quality that are available from other dealers. Neither MS, Mitsubishi UFJ nor any other affiliate thereof (other than the Advisers) will have any involvement with respect to proposed transactions between the Funds and the Advisers and, except to the extent set forth in condition 6(d) below, will not attempt to influence or control in any way the placing by the Funds or the Advisers of orders with MS & Co.

3. Before any principal transaction may be conducted pursuant to the order, the relevant Fund or Adviser must obtain such information as it deems reasonably necessary to determine that the price test (as defined in condition (2) above) has been satisfied. In the case of

each purchase or sale transaction, the relevant Fund or Adviser must make and document a good faith determination with respect to compliance with the price test based on current price information obtained through the contemporaneous solicitation of bona fide offers in connection with securities falling within the same category of instrument, quality and maturity (but not necessarily the identical security or issuer). With respect to variable rate demand notes, contemporaneous solicitation of a bona fide offer will be construed to mean any bona fide offer solicited during the same trading day. With respect to prospective purchases of securities by a Fund, the dealer firms from which prices are solicited must be those who have securities of the same categories and the type desired in their inventories and who are in a position to quote favorable prices with respect thereto. With respect to the prospective sale of securities by a Fund, these dealer firms must be those who, in the experience of the Funds and the Advisers, are in a position to quote favorable prices. Before any repurchase agreements are entered into pursuant to the exemption, the Fund or the relevant Adviser must obtain and document competitive quotations from at least two other dealers with respect to repurchase agreements comparable to the type of repurchase agreement involved, except that if quotations are unavailable from two such dealers, only one other competitive quotation is required.

4. Principal transactions in all Money Market Instruments other than repurchase agreements conducted by a Fund pursuant to the order shall be limited to no more than (a) an aggregate of 25% of the direct or indirect purchases and 25% of the direct or indirect sales of Eligible Securities other than repurchase agreements conducted by that Fund and (b) an aggregate of 25% of the purchases or sales, as the case may be, by MS & Co. of Eligible Securities other than repurchase agreements. Repurchase agreements conducted pursuant to the exemption shall be limited to no more than 10% of (a) the repurchase agreements directly or

indirectly entered into by the relevant Fund and (b) the repurchase agreements transacted by MS & Co. Principal transactions in Tax-Exempt Money Market Instruments conducted by each Money Market Fund pursuant to the order, shall be limited to no more than an aggregate of 20% of the direct or indirect purchases and 20% of the direct or indirect sales of Tax-Exempt Money Market Instruments by that Money Market Fund. The Adviser or Fund and MS & Co. will measure these limits on an annual basis (the fiscal year of each Fund) and shall compute them using the dollar volume of transactions.

5. MS & Co.'s dealer spread regarding any transaction with the Funds will be no greater than its customary dealer spread on similar transactions (with unaffiliated parties) of a similar size during a comparable time period. Its customary dealer spread also will be consistent with the average or standard spread charged by dealers in Money Market Instruments of a similar type and transaction size.

6. The Advisers, on the one hand, and MS & Co. on the other, will operate on different sides of appropriate walls of separation with respect to the Funds and the Money Market Instruments. The walls of separation will include all of the following characteristics, and such others that MS & Co. and the Advisers consider reasonable to facilitate the factual independence of the Advisers from MS & Co.:

- (a) Each of the Advisers will maintain offices physically separate from those of MS & Co.
- (b) The compensation of persons assigned to any of the Advisers (i.e., executive, administrative or investment personnel) will not depend on the volume or nature of trades effected by the Advisers for the Funds with MS & Co. under the exemption, except to the

extent that such trades may affect the profits and losses of Mitsubishi UFJ and its affiliates as a whole.

(c) MS & Co. will not compensate the Advisers based upon its profits or losses on transactions conducted pursuant to the exemption, provided that the allocation of the profits by Mitsubishi UFJ to its shareholders and the determination of general firm-wide compensation of officers and employees, will be unaffected by this undertaking.

(d) Personnel employed by the Advisers' investment advisory operations on behalf of the Funds will be exclusively devoted to the business and affairs of one or more of the Advisers. Personnel employed by MS & Co. will not participate in the decision-making process for or otherwise seek to influence the Advisers other than in the normal course of sales and dealer activities of the same nature as are simultaneously being carried out with respect to nonaffiliated institutional clients. Each Adviser, on the one hand, and MS & Co., on the other hand, may nonetheless maintain affiliations other than with respect to the Funds, and in addition with respect to the Funds, Adviser personnel may rely on research, including credit analysis and reports prepared by various subsidiaries and divisions of MS & Co.

7. The Funds and the Advisers will maintain such records with respect to those transactions conducted pursuant to the exemption as may be necessary to confirm compliance with the conditions to the requested relief. To this end, each Fund shall maintain the following:

(a) An itemized daily record of all purchases and sales of securities pursuant to the exemption, showing for each transaction the following: (i) the name and quantity of securities; (ii) the unit purchase or sale price; (iii) the time and date of the transaction; and (iv) whether the security was a First Tier or Second Tier Security. For each

transaction (other than variable rate demand notes), these records shall document two quotations received from other dealers for securities falling within the same category of instrument, quality and maturity; including the following: (i) the names of the dealers; (ii) the names of the securities; (iii) the prices quoted; (iv) the times and dates the quotations were received; and (v) whether such securities were First Tier or Second Tier Securities. In the case of variable rate demand notes, the Fund shall maintain the same records except that the rates of return quoted will be substituted for the prices quoted.

(b) Records sufficient to verify compliance with the volume limitations contained in condition (4) above. MS & Co. will provide the Funds with all records and information necessary to implement this requirement.

(c) Each Fund shall maintain a ledger or record showing, on a daily basis, the percentage of the Fund's Total Assets (or, in the case of a Fund that is not subject to rule 2a-7 the percentage of its total cash, cash items and Eligible Securities) represented by Second Tier Securities acquired from MS & Co.

(d) Each Fund shall maintain records sufficient to verify compliance with the repurchase agreement requirements contained in condition 1(c) above.

The records required by this condition (7) will be maintained and preserved in the same manner as records required under rule 31a-1(b)(1) under the Act.

8. The legal and compliance departments of MS & Co. and the Advisers will prepare and administer guidelines for personnel of MS & Co. and the Advisers to make certain that transactions conducted pursuant to the order comply with the conditions set forth in the order and that the parties generally maintain arm's-length relationships. In the training of MS & Co's personnel, particular emphasis will be placed upon the fact that the Funds are to receive rates as

favorable as other institutional purchasers buying the same quantities. The legal and compliance departments will periodically monitor the activities of MS & Co. and the Advisers to make certain that the conditions set forth in the order are adhered to.

9. The members of the Board of each of the Funds who are not “interested persons” as defined in Section 2(a)(19) of the Act (“Independent Trustees”) will approve, periodically review, and update as necessary, guidelines for the Funds and the Advisers that are reasonably designed to make certain that the transactions conducted pursuant to the exemption comply with the conditions set forth herein and that the above procedures are followed in all respects. The Independent Trustees will periodically monitor the activities of the Funds and the Advisers in this regard to ensure that these goals are being accomplished.

10. The Board, including a majority of the Independent Trustees, will have approved each Fund’s participation in transactions conducted pursuant to the exemption and determined that such participation by the Fund is in the best interests of the Fund and its shareholders. The minutes of the meeting of the Board at which this approval was given must reflect in detail the reasons for the Board’s determination. The Board will review no less frequently than annually each Fund’s participation in transactions conducted pursuant to the exemption during the prior year and determine whether the Fund’s participation in such transactions continues to be in the best interests of the Fund and its shareholders. Such review will include (but not be limited to) (a) a comparison of the volume of transactions in each type of security conducted pursuant to the exemption to the market presence of MS & Co. in the market for that type of security, which market data may be based on good faith estimates to the extent that current formal data is not reasonably available, and (b) a determination that the Funds are maintaining appropriate trading relationships with other sources for each type of security to ensure that there are appropriate

sources for the quotations required by condition 3. The minutes of the meetings of the Board at which these determinations are made will reflect in detail the reasons for the Board's determinations.

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

Cathy H. Ahn
Deputy Secretary