

Retirement Board for determining entitlement to and amount of the annuity applied for.

ADDITIONAL INFORMATION OR COMMENTS:

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,
Clearance Officer.

[FR Doc. 96-14341 Filed 6-6-96; 8:45 am]

BILLING CODE 7905-01-M

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Application for Reimbursement for Hospital Services in Canada.

(2) *Form(s) submitted:* AA-104.

(3) *OMB Number:* 3220-0086.

(4) *Expiration date of current OMB clearance:* July 31, 1996.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 45.

(8) *Total annual responses:* 45.

(9) *Total annual reporting hours:* 8.

(10) *Collection description:* The Railroad Retirement Board administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed to determine eligibility for and the amount due for covered hospital services received in Canada.

ADDITIONAL INFORMATION OR COMMENTS:

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and

the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,
Clearance Officer.

[FR Doc. 96-14411 Filed 6-6-96; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-37272; File No. 10-100]

Exempted Exchanges; AZX, Inc.; Order Amending Exemption Order and Granting Amendment to Application for Exemption From Registration as an Exchange Under Section 5 of the Securities Exchange Act of 1934; Final Order

June 3, 1996.

I. Summary

AZX, Inc., formerly known as Wunsch Auction Systems, Inc., has requested that the Commission amend the exemption order pursuant to which AZX, Inc. operates the Arizona Stock Exchange ("AZX") without registration as a national securities exchange.¹ The proposal was published for comment and two comment letters were received.² After evaluating the proposal and the comment letters, the Commission concludes that AZX will continue to meet the statutory standard governing the granting of an exemption from registration as a national securities exchange under the Securities Exchange Act of 1934 ("Act"). Accordingly, the Commission hereby amends AZX's Exemption Order to: (1) grant AZX Inc.'s amended application for exemption from registration as a national securities exchange, to permit AZX to operate a single auction during regular trading hours; and (2) make technical corrections to the Exemption Order to conform to changes in the operation of the system since the Exemption Order was issued, and to clarify reporting

¹ Securities Exchange Act Release No. 28899 (February 20, 1991), 56 FR 8377 ("Exemption Order"). AZX also operates pursuant to a no-action letter regarding non-registration as a broker-dealer, clearing agency, transfer agent, and securities information processor. Letter regarding Wunsch Auction Systems, Inc. (February 28, 1991) ("No-action Letter").

² Securities Exchange Release No. 35922 (June 30, 1995), 60 FR 35445 (July 7, 1995), soliciting comment on *Amendment to Application for Exemption from Registration as a National Securities Exchange*. File No. 10-100 (May 31, 1995).

requirements applicable to AZX under the Exemption Order.

II. Description of AZX

AZX is a single-price auction system that facilitates secondary market trading of registered equity securities by permitting institutional and broker-dealer participants to enter buy and sell orders for those securities and have those orders executed at an "equilibrium" price determined by the interaction of the orders.³ Bid orders entered at prices equal to or above the equilibrium price, and offer orders entered at prices equal to or below the equilibrium price, are eligible for execution for the equilibrium price. After the equilibrium price is determined, Investment Technology Group, Inc. ("ITG"), the crossing broker for AZX, executes eligible orders on the basis of time priority.⁴

AZX's single-price auctions are currently conducted outside the regular trading hours of the New York Stock Exchange ("NYSE") and the Nasdaq system, at 5:00 p.m. and 5:30 p.m. (ET) each trading day. During the period immediately preceding an auction, AZX participants may enter orders into the system by specifying the name of the security and the price and size of their order. Orders may be entered into any of four separate AZX "books": the Open Book, Reserve Book, Balanced Book, and Match Book.

The Open Book contains orders eligible for the auction and displays those orders on an anonymous basis to all AZX participants. The Reserve Book conceals orders from other participants until a *contra* side order is entered into either the Open Book or the Reserve Book. If such a *contra* side order is entered, the order placed in the Reserve Book will move into the Open Book, where it will become eligible for the auction. The Balanced Book conceals orders from other AZX participants until immediately prior to the auction, at which time any orders that match each other, and still meet parameters set by the participants regarding net dollars bought or sold,⁵ are matched in the Open Book. The Match Book accommodates orders that are not eligible for the auction (because, for

³ AZX is more fully described in the Exemption Order and in the No-action Letter.

⁴ Where there is not sufficient eligible interest on one side of a transaction to satisfy all eligible interest on the other side of the transaction, eligible orders entered earlier in time will be filled first under AZX's time priority rules.

⁵ For example, a participant may specify that it is willing to purchase ABC stock, and sell PQR stock, but only if the proceeds received from the sale of PQR exceed by a specified amount the money spent on purchasing ABC.

example, the participant requires the order to be matched at the closing price for the security on the NYSE and not at any other price, such as the price discovered in the AZX auction). The Match Book permits such orders to be prematched prior to the auction and routed for execution to ITG.⁶

AZX participants may gain access to the system by establishing a communications connection between their computer terminals and the central host computer, through direct line, public data network, or dial-in via modem.⁷ Alternatively, AZX participants who are customers of ITG may request that unfilled orders for AZX-eligible securities be routed by the QuantEX system to other trading environments or the next AZX auction.⁸

III. The Proposed Morning Auction

In its amendment to its application for exempting from exchange registration, AZX Inc. proposes to operate AZX during regular trading hours.⁹ Under the proposal, AZX would conduct a daily auction, at a fixed time between 9:45 and 10 a.m. (ET), in addition to its current operation outside of regular trading hours.¹⁰ Trading in the proposed morning auction would be limited to Nasdaq National Market ("NNM") securities.¹¹ AZX initially plans to trade only 15 of the approximately 4,023

Nasdaq National Market securities, but will expand as demand warrants.¹²

AZX's proposed morning auction is identical to AZX's current evening auctions in terms of its: Participation criteria; means of access to the system; algorithm for discovering the "equilibrium" price; confirmation, clearance and settlement of matched transactions; and commission structure.

The proposed morning auction will differ from AZX's current evening sessions in terms of:

- *Eligible securities.* Securities eligible to be traded in the morning auction will be limited to NNM securities. Both Nasdaq and exchange-listed securities are eligible for trading in the evening auctions.
- *Time period for order entry.* The time period during which a participant may enter a limit order for auction trading will be limited to the period from 9:00 a.m. to "auction end" time—a minimum of 45 minutes and a maximum of one hour. Participants in the evening auctions may enter orders within a two-hour period (from 3:00 p.m. to 5:00 p.m.) prior to the 5:00 p.m. auction, and a one-half hour period prior to the 5:30 p.m.
- *Price increments for entered orders.* Orders must be entered in 1/8 point price increments, and are limited to "odd" sixteenths (i.e., 1/16, 3/16, 5/16, etc.). By contrast, participants in the evening auctions enter orders in increments of 1/16 point.¹³
- *Absence of Match Book Service.* The Match Book, which is available for the evening sessions, is not available for the morning auction.
- *Same-day transaction reporting.* ITG, the clearing and crossing broker for AZX, will have same-day reporting obligations with respect to securities traded during the morning auction.¹⁴

IV. Comment Letters

The Commission received two comments on the AZX proposal, from the Pacific Stock Exchange ("PSE") and the National Association of Securities Dealers, Inc. ("NASD").¹⁵ In their comment letters, the NASD and PSE stated that they did not oppose AZX's

operation during regular trading hours. Both commenters, however, expressed concern that the new morning auction would likely cause AZX's volume to increase so as to invalidate the limited volume exemption. Furthermore, they stated that the operation of the morning auction should subject AZX to all the rules and regulations to which registered national securities exchanges are subject. In particular, they argued that AZX should be treated similarly to the Chicago Match System operated by the Chicago Stock Exchange ("CHX") and be regulated as a national securities exchange.¹⁶ Finally, they raised issues dealing with AZX's compliance with the Act and the NASD's rules.

V. Discussion

A. Consistency of Morning Operation With Exemption Order and No-action Letter

The current Exemption Order and NO-action Letter are premised on AZX's conducting auctions at discrete, relatively infrequent points of time, the absence of broker-dealer participants who have market-maker type obligations, and after-hours operation as elements that justify an expectation that AZX will have only limited volume as required for an exemption under Section 5 of the Act.¹⁷ The Commission reserved the right to apply further conditions or rescind the exemption if circumstances changed or AZX did not operate as originally represented.¹⁸ The Commission did not preclude AZX from conducting a morning trading session during regular trading hours. Rather, the Commission envisioned that AZX would have to file such a proposed change as an amendment to its original application for exemption pursuant to Rule 6a-1 under the Act,¹⁹ and that the Commission would evaluate the proposal to determine whether AZX would continue to warrant an exemption from exchange registration.

The Commission believes that the mere existence of an early morning trading session should not change AZX's status as an exempted exchange. As previously, AZX will continue to conduct a very limited number of auctions at discrete, relatively infrequent points of time and will not have broker-dealer participants who owe market-maker type obligations to AZX. The limited volume exemption

⁶ The Match Book feature operates subject to AZX's: (1) Aggregating Match Book volume with AZX auction volume in its monthly reports pursuant to the Exemption Order, for purposes of the limited volume exemption; (2) separately reporting Match Book volume in its monthly reports; (3) limiting Match Book trading to securities registered pursuant to Sections 12(b) and 12(g) of the Act; and (4) limiting the service to transactions in which both sides of the trade are entered by the same participant.

⁷ Information regarding the prices and volumes of orders in the Open Book and the equilibrium prices and volumes of completed transactions in AZX auctions are available through Bridge Information Systems ("Bridge") and through AZX's "home page" on the World Wide Web. Orders cannot be entered into AZX through these two media.

⁸ QuantEX, which is owned and operated by ITG, allows ITG customers to transmit orders to: The NYSE and American Stock Exchange, an automated trading system operated by ITG called the Portfolio System for Institutional Trading ("POSIT"), the regional stock exchanges, over-the-counter market makers, selected broker-dealers, the ITG trading desk, and AZX.

⁹ "Regular trading hours" refers to the time period in which the NYSE and the Nasdaq system permit trading, i.e., 9:30 a.m. to 4 p.m. (ET) each trading day.

¹⁰ AZX will notify the Commission of the exact time of the morning auction prior to commencing operation.

¹¹ NNM securities are the top tier of securities quoted on the Nasdaq system. They are subject to a transaction reporting plan approved by the Commission and to last sale reporting requirements.

¹² AZX is not required to seek separate Commission approval in order to add additional NNM securities to the list of securities eligible for regular-hours trading.

¹³ The purpose of the minimum 1/8 increment is to encourage early entry of Open Book orders, by protecting those orders from being out-bid or out-offered by small amounts, such as sixteenths, at the end of the auction. The purpose of requiring the minimum increments to fall on odd sixteenths is to allow a participant to enter an order that may potentially trade at a price that is within that spread in the Nasdaq market.

¹⁴ See Section 11A of the Act, 15 U.S.C. § 78K-1; and Schedule D to the NASD's By-Laws, NASD Manual (CCH) § 1867, at 1637-1643.

¹⁵ Letters from: Richard G. Ketchum, Executive Vice President, NASD, dated August 11, 1995 ("NASD Letter") and David P. Semak, Vice President, PSE, dated September 1, 1995 ("PSE Letter"), included in File No. 10-100.

¹⁶ In particular, the NASD notes that AZX should not be able to trade more NNM securities than other exchanges do through unlisted trading privileges, i.e. 500 maximum.

¹⁷ Exemption Order, 56 FR at 8380.

¹⁸ Exemption Order, 56 FR at 8383.

¹⁹ 17 CFR 240.6a-1.

continues to be premised on AZX's average daily volume (including both day and after-hours auctions) remaining below the average daily volume of the lowest volume national securities exchange.²⁰ The average daily volume currently experienced by AZX is well below that of the lowest volume national securities exchange.²¹ Moreover, given the wide range of alternative trading environments for registered equity securities available to investors during regular trading hours, the mere operation of a single AZX morning session does not seem likely to cause AZX's volume to exceed the volume of any national securities exchange. Should AZX's volume to exceed the volume of any national securities exchange. Should AZX's volume exceed the limited volume threshold, however, the Commission may rescind the exemption and require AZX to register as a national securities exchange under Section 6 of the Act.²²

B. Equal Regulation in the Securities Markets

Both the NASD and PSE expressed a concern that regulatory fairness was jeopardized by allowing AZX to operate without being bound by the rules applicable to other exchanges. As an example, they cited the operation of the Chicago Match System which was regulated according to the rules and

regulations governing national securities exchanges.²³

The Chicago Match System was a facility of the Chicago Stock Exchange ("CHX"), a national securities exchange; as such, it was regulated as part of the CHX. By comparison, the Commission determined not to regulate AZX as a national securities exchange due to low volume. Consequently, the AZX auction is not a facility of any national securities exchange. Accordingly, the requirements that apply to the facilities of national securities exchanges do not necessarily apply to AZX.

C. Surveillance

As a condition of the Exemption Order, AZX undertook to conduct surveillance with respect to after-hours trading to detect, among other things, potential insider trading and manipulative abuses. In their comment letters, the NASD and PSE expressed concern regarding whether those surveillance procedures remain adequate with respect to the regular-hours auction, because the regular-hours auction will take place while other markets for AZX-eligible securities are operating.²⁴ In response to these concerns, AZX has agreed to implement a number of additional surveillance procedures to detect possible market manipulation and insider trading. The new surveillance procedures, among other things, require AZX to compare auction prices and bids and offers entered into AZX with activity in the primary trading market for the security, and to monitor the effects of an order cancellation or order revision on the primary market.

D. Limitations on Unlisted Trading Privileges

The NASD argued that AZX should be subject to the restrictions on unlisted trading privileges ("UTP") to which national securities exchanges are subject under Temporary Commission Approval of the Joint Industry Plan for Exchange Trading of Nasdaq National Market Securities ("Temporary Approval"), i.e., no participant national securities exchange may trade more than 500 NNM securities on an unlisted basis.²⁵

²³ The Chicago Match System recently ceased operations.

²⁴ In view of the potential impact that daylight trading could have on trading in other markets, the NASD suggested that AZX specify the exact time of the daylight auction. AZX states in its amendment to its exemptive application that it will establish a set time for the auction, to be announced prior to conducting the initial auction.

²⁵ Until last year, participant national securities exchanges were limited to 100 NNM securities. In August 1995, however, the Commission expanded the number of NNM securities that a participant

AZX proposes to trade only 15 NNM securities at the outset, although this number may increase. By virtue of its limited volume exemption, AZX is not subject to rules and regulations governing national securities exchanges, and thus would not be subject to the limits in place under the Temporary Approval. Moreover, premising AZX's operation on limited volume places a restraint on AZX volume to which national securities exchanges trading NNM securities based on UTP are not subject. It would be needless at this time to further restrain AZX volume by limiting the number of NNM securities it may trade. However, the Commission reserves the right to revisit this issued should the number of NNM securities traded in the morning auction approach 500.

E. Compliance with NASD Rules

1. *Limit Order Protection.* The NASD expressed concern regarding whether AZX's procedures adequately facilitate surveillance of possible violations of the NASD's Limit order Protection Interpretation ("Interpretation") by AZX participants who are NASD members.²⁶ The Interpretation generally prohibits a member firm that accepts and holds an unexecuted customer limit order from its own customer or the customer of another member from "trading ahead" of the customer limit order at a price that would satisfy the customer limit order, unless it also executes the limit order.

Under its surveillance procedures, AZX will maintain records of every order entered into the system and will provide the NASD, on request, with access to the identities of participants who have entered specific orders. In addition, pursuant to the enhanced surveillance procedures it has adopted, AZX also will monitor instances in which an order is entered at a price that is outside the Nasdaq best bid and offer for a particular security. These procedures will facilitate detection of possible instances of violation of the NASD's Interpretation.

2. *Proposed NAQcess Rules.* The NASD also raised an issue regarding the applicability of the proposed NAQcess rules to AZX participants who are NASD members. NAQcess is a proposed Nasdaq system intended to provide small customer orders with limit order

national securities exchange could trade to 500 securities. See Securities Exchange Act Release No. 36102 (August 14, 1995), 60 FR 43626.

²⁶ NASD Manual (CCH), Rules of Fair Practice, Art. III, Section 1, § 2151.07.

²⁰ The Exemption Order states that the "volume levels of fully regulated national securities exchanges provide a useful benchmark," and the Commission would be concerned if the volume of an exempted exchange "exceeded that of any of the fully regulated national securities exchanges." Exemption Order, 56 FR at 8380.

²¹ The Philadelphia Stock Exchange ("Phlx") is currently the lowest volume national securities exchange. For calendar year 1995, the average daily volume of the Phlx was approximately 5,965,346 shares. In its comment letter the NASD argues that, in determining whether AZX is no longer eligible for the limited volume exemption, the Commission is required to apply, as its benchmark for limited volume, the average daily volume reported by the Cincinnati Stock Exchange ("CSD") as of the date of the Exemption Order.

Contrary to the NAS's argument, nothing in the Exemption Order limits the Commission's review to the volume level of the CSE at the time of the Exemption Order. Rather, the Commission's statement that it would be concerned over the competitive implications of AZX volume exceeding "any of the fully regulated national securities exchanges" focuses on current volume reported by the national securities exchanges. Accordingly, at the present time, a comparison of AZX's volume levels to the reported volume of the Phlx is an appropriate benchmark.

²² The Exemption Order states that "[s]hould the Commission learn that any of the conditions set forth in this Order or otherwise imposed upon the granting of this exemption have been breached * * * the Commission will commence a review to determine whether to rescind the exemption." Exemption Order, 56 FR 8383.

protection and price improvement.²⁷ In general, the NAqcess rules as proposed would apply to AZX participants who are NASD members.

The enhanced surveillance procedures adopted by AZX appear to be consistent with the proposed NAqcess rules. Because the NAqcess rules are currently in the proposing stage, however, it is premature to consider the need for possible changes to AZX's surveillance procedures. The Commission will address this issue prior to the approval of any NAqcess rules.

3. Short Sale Rule. The NASD notes that its short sale rule would apply to AZX participants who are NASD members.²⁸ AZX has taken measures to promote compliance with the NASD short sale rule by its members. Specifically, orders that are entered into AZX and that constitute short sales are put in the Balanced Book and not the Open Book. At the time of the auction, if it appears that certain of these orders, if executed, would breach the short sale restriction, then they will not be allowed to participate in the auction.

F. Terms and Conditions of the Exemption

All of the original terms and conditions of the Exemption Order remain in effect. The Amended Order notes, in this connection, that the following reporting requirements of the Order may be satisfied by compliance with the recordkeeping and reporting requirements contained in Rule 17a-23 under the Act:²⁹

- The number and identity of system participants;
 - The volume of business (expressed in dollars, transactions, and shares) transacted through the system;
 - Instances when system participants failed to deliver securities or make payment (expressed in transactions, shares and dollars); and
 - A list of securities trading on the system.
- The following information also must continue to be reported pursuant to the Exemption Order:
- The identity of applicants denied participation and reasons for the denial;
 - The number of auctions conducted; and
 - The prices at which particular blocks of securities were sold during the auctions.

²⁷ See Securities Exchange Act Release No. 36548 (December 1, 1995), 60 FR 63092.

²⁸ Art. III, Section 48 of the Rules of Fair Practice, NASD Manual (CCH) § 2200H, at 2216.

²⁹ Rule 17a-23 requires registered broker-dealer sponsors of certain automated trading systems ("broker-dealer trading systems") to make and keep current certain records, and file reports with the Commission (and in certain circumstances, with the appropriate self-regulatory organization) regarding the operation of the system. ITC, the crossing broker for AZX, is subject to Rule 17a-23 with respect to the operation of AZX.

VI. Conclusion

The Commission has reviewed AZX's amendment to its application for exemption from registration as a national securities exchange and has determined that AZX continues to qualify for the limited volume exemption under the Act. As it found in the Exemption Order, the Commission finds that, by reason of the limited volume of transactions effected on AZX, it is not practicable and not necessary or appropriate in the public interest or for the protection of investors to require AZX's registration as a national securities exchange, subject to the conditions described herein.

It is therefore ordered that AZX's Exemption Order be amended to: (1) Grant AZX Inc.'s amended application for exemption from registration as a national securities exchange; and (2) reflect changes to the operation of the system as set forth herein.

By the Commission.
Jonathan G. Katz,
Secretary.
[FR Doc. 96-14399 Filed 6-6-96; 8:45 am]
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Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Bitwise Designs, Inc., Common Stock, \$.001 Par Value) File No. 1-13276

June 3, 1996.

Bitwise Designs, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Boston Stock Exchange Incorporated ("BSE").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Security is presently listed on the BSE, PSE and the Nasdaq SmallCap Market. The Company wishes to delist its Security from the BSE. The decision to delist from the BSE has been occasioned by reason of the Company's listing on the PSE. PSE and Nasdaq quotations are readily available to the public from various media sources, and there appears to be no continuing benefit either to the Company or its shareholders for continued listing on the BSE. In addition, delisting from the BSE will save the Company redundant

listing fees. The Company's Security will continue to be traded on the PSE and the Nasdaq SmallCap Market.

Any interested person may, on or before June 24, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 96-14355 Filed 6-6-96; 8:45 am]
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[Rel. No. IC-22000; International Series Release No. 990; File No. 812-10136]

The Chase Manhattan Bank, N.A. and Chemical Bank; Notice of Application

May 31, 1996.

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

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Chase Manhattan Bank, N.A. ("Chase") and Chemical Bank ("Chemical").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 26(a) (2)(D) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would amend a prior order (the "Prior Order")¹ granted to Chase which permits Chase, as trustee for certain unit investment trusts ("UITs"), to deposit trust assets in the custody of the Euroclear System ("Euroclear") and Cedel Bank S.A. ("Cedel"). The requested order would substitute the entity surviving the anticipated merger of Chase and Chemical as the party to which relief is granted. Chemical will survive the merger and change its name to "The Chase Manhattan Bank."

FILING DATE: The application was filed on May 8, 1996.

¹ The Chase Manhattan Bank, N.A., Investment Company Act Release Nos. 21673 (Jan. 16, 1996) (notice) and 21751 (Feb. 13, 1996) (order).