allocations of each Pathway Series portfolio's assets among its Underlying Funds; annual expense ratios for each Pathway portfolio and each of its Underlying Funds; and a description of any vote taken by the shareholders of any Underlying Fund, including a statement of the percentage of votes cast for and against the proposal by the Pathway Series and by the other shareholders of the Underlying Funds. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Pathway Series (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–19567 Filed 7–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22099; 812–10140]

Van Eck Funds, et al.; Notice of Application

July 25, 1996.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Van Eck Funds, Van Eck Worldwide Insurance Trust (collectively, the ''Funds''), and Van Eck Associates Corporation (''Van Eck Associates'').

RELEVANT ACT SECTIONS: Order requested under sections 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g), and rule 2a–7 thereunder; under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1); and under section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Funds to enter into deferred compensation arrangements with their independent trustees.

FILING DATES: The application was filed on May 9, 1996, and amended on July 19, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 19, 1996 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 99 Park Avenue, New York, N.Y. 10016.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds is a registered open-end management investment company comprised of several investment portfolios. Van Eck Associates serves as the investment adviser to each series of the Funds. Applicants request that the exemption also apply to any registered investment companies that in the future are advised by Van Eck Associates or any entity under common control with or controlled by Van Eck Associates. (Such future funds are also referred to as the ''Funds.'')

2. Each Fund has a board of trustees, a majority of whom are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''independent trustees''). Each independent trustee receives annual fees from the Funds. No trustee who is an affiliated person of Van Eck Associates receives any remuneration from any Fund.

3. Effective January 1, 1996, certain independent trustees entered into a deferred fee agreement (each an ''Agreement''), an unfunded, nonqualified deferred compensation arrangement, with each of the Funds. Under the Agreement, an independent trustee may elect to defer receipt of all or a portion of his or her fees earned on or after the effective date of the Agreement through December 31, 1996.

4. Each of the Funds has established a book reserve account on behalf of each electing independent trustee (each a ''Deferred Fee Account''). On the dates that each such Fund would otherwise pay these deferred fees, the Fund credits such amounts into the Deferred Fee Account. Interest on each Deferred Fee Account is credited each quarter, calculated based on the balance of the Deferred Fee Account as of the first day of each quarter. The interest rate that has been used to date is based on the prevailing rate for 90-day U.S. Treasury bills in effect as of the prior quarter end or as close to that date as is possible.

5. Each of the Funds now proposes to adopt a formal deferred compensation plan (the ''Plan''). The Plan would permit independent trustees to elect to defer receipt of all or a portion of their fees, thereby also enabling them to defer payment of income taxes on such fees.

6. An independent trustee will be able to defer fees with respect to one, several or all of the Funds for which he or she serves as an independent trustee. The election is to be made by execution of a notice of election to defer compensation (''Notice of Election''). A Notice or Election generally must be made prior to January 1 of each calendar year for which compensation is to be deferred.

7. Each Fund now proposes to use returns on certain Funds and other investment companies that are not affiliated with Van Eck Associates designated from time to time by the trustees (the ''Eligible Funds'') to determine the amount of earnings and gains or losses allocated to an independent trustee's Deferred Fee Account. If the requested relief is granted, the value of the Deferred Fee Account as of any date would be periodically adjusted by treating the Deferred Fee Account as though an equivalent dollar amount had been invested and reinvested in certain designated securities (the ''Underlying Securities''). The underlying Securities for a Deferred Fee Account will be shares of any of the Eligible Funds as the participating independent trustee shall have designated in his or her Notice of Election. Each Deferred Fee Account shall be credited or charged with book adjustments representing all interest, dividends and other earnings and all gains and losses which would have been realized had such account been invested in such Underlying Securities.

8. The Plan provides that a participating Fund's obligation to make payments from a Deferred Fee Account will be a general obligation of the Fund and payments made pursuant to the Plan will be made from such Fund's general assets and property. With respect to the obligations created under the Plan, the relationship of an

independent trustee to the participating Fund will be only that of a general unsecured creditor.

9. The Plan also provides that the participating Fund will be under no obligation to the independent trustee to purchase, hold or dispose of any investments but, if the Fund chooses to purchase investments to cover its obligations under such Plan, then any and all such investments will continue to be a part of the general assets and property of the Fund.

10. As a matter of prudent risk management, each Fund intends generally, and with respect to any money market Fund that values its assets by the amortized cost method hereby undertakes, to purchase and maintain Underlying Securities in an amount equal to the deemed investments of the Deferred Fee Accounts of its independent trustees.

11. Under the Plan, the independent trustee's deferred fees generally will be distributed commencing on a date specified in the independent trustee's Notice of Election, which may not be sooner than the earlier of the termination of the independent trustee's service as a trustee or one year following the deferral election. Payments will be made in a lump sum or in installments as shall be elected by the independent trustee. In the event of the independent trustee's death, amounts payable to him or her under the Plan will thereafter be payable to his or her designated beneficiary; in all other events, the independent trustee's right to receive payments generally will be nontransferable.

12. The Plan will not obligate any Fund to retain the services of an independent trustee, nor will it obligate any Fund to pay any (or any particular level of) trustee's fees to any trustee.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), 22(g), and rule 2a–7 thereunder to permit the Funds to offer the Plans; under sections 6(c) and 17(b) of the Act for an exemption from section 17(a)(1) to permit the Funds to sell securities issued by them to participating Funds; and pursuant to section 17(d) of the Act and rule 17d–1 thereunder to permit the Funds to effect joint transactions incident to the Plans.

2. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, 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.

3. Section 18(f)(1) generally prohibits a registered open-end investment company from issuing senior securities. Section 13(a)(2) requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Applicants state that the Plan would possess none of the characteristics of the instruments which led to Congress's concerns in this area. In all cases, the liabilities for deferred fees are expected to be *de minimis* in relation to Fund net assets. The Plan would not induce speculative investment by any Fund or provide opportunity for manipulative allocation of a Fund's expenses and profits; control of each Fund would not be affected; and the Plan would not confuse investors or convey a false impression of safety.

4. Section 22(f) prohibits undisclosed restrictions on the transferability or negotiability of redeemable securities issued by open-end investment companies. The Plan would clearly set forth any restriction on transferability or negotiability. Such restriction would be included primarily to benefit the participating independent trustee, and would not adversely affect the interests of the independent trustee, the Fund or any shareholder of the Fund.

5. Section 22(g) prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. These provisions prevent the dilution of equity and voting power that may result when securities are issued for consideration that is not readily valued. Applicants believe that the Plan would merely provide for deferral of payment of fees and thus should be viewed as being issued not in return for services but in return for a Fund not being required to pay such fees on a current basis.

6. Section 13(a)(3) provides that no registered investment company shall, unless authorized by the vote of a majority of its outstanding voting securities, deviate from any investment policy that is changeable only if authorized by shareholder vote. Existing series of Van Eck Funds have limitations on their ability to purchase securities issued by other investment companies (collectively, the ''Restriction Series'). Any relief granted from section 13(a)(3) would apply only to the Restriction Series. Applicants believe that an exemption is appropriate to enable the Restriction Series to invest in Underlying Securities without a shareholder vote. Applicants will provide notice to shareholders of the deferred compensation plan in their statements of additional information.[1] The value of the Underlying Securities is expected to be *de minimis* in relation to the total net assets of each Restriction Series. Changes in the value of the Underlying Securities will not affect the value of shareholders' investments in the Restriction Series. Applicants believe that permitting the Restriction Series to invest in Underlying Securities without obtaining the shareholder approval would thus not cause harm to the Restriction Series or their shareholders, and would in fact benefit them by enhancing their ability to attract and retain qualified trustees without incurring the considerable costs of holding a shareholder meeting and soliciting proxies to approve a change in the investment policy in question.

7. Rule 2a–7 imposes certain restrictions on the investments of ''money market funds,'' as defined under the rule, that would prohibit a Fund that is a money market fund from investing in the shares of any other Fund. Applicants submit that the requested exemption would permit the Funds in question to achieve an exact matching of Underlying Securities with the deemed investments of the Deferred Fee Accounts, thereby ensuring that the deferred fee arrangements will not affect net asset value.

8. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company from selling any security to such registered investment company. Funds that are advised by the same entity may be ''affiliated persons'' of one another by reason of being under the common control of their adviser. Applicants request an exemption from 17(a)(1) for transactions between Eligible Funds that are affiliated with Van Eck Associates. Applicants believe that an exemption from this provision would not implicate Congress's concerns in enacting the section, but would merely facilitate the matching of a Fund's liability for deferred trustees' fees with the Underlying Securities that would determine the amount of such Fund's liability.

9. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching; (b) the transaction is consistent with the policy

[1] The Division notes that other funds have disclosed their deferred compensation arrangements in a similar manner. *See John Hancock Funds, Inc.* (pub. avail. Jun. 28, 1996).

of each registered investment company concerned; and (c) the transaction is consistent with the general purposes of the Act. Because section 17(b) may apply only to a specific proposed transaction, applicants also request an order under section 6(c) so that the relief will apply to a series of transactions. Applicants believe that the proposed transactions satisfy the criteria of sections 6(c) and 17(b). The findings required by section 17(b)(2) are premised on the assumption that the relief requested from section 13(a)(3) is granted.

10. Section 17(d) of the Act prohibits affiliated persons from participating in joint transactions with a registered investment company in contravention of rules and regulations prescribed in the SEC. Rule 17s–1 under the Act prohibits affiliated persons of a registered investment company from entering into joint transactions with the investment company unless the SEC has granted an order permitting the transaction after considering whether the participation of such investment company is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants request relief under section 17(d) and rule 17d–1 for transactions with Eligible Funds that are affiliated with Van Eck Associates. As an affiliated person, the participating independent trustee would neither directly nor indirectly receive a benefit which would otherwise inure to the Funds or any of their shareholders. Deferral of an independent trustee's fees in accordance with the Plan would essentially maintain the parties, viewed both separately and in their relationship to one another, in the same position (apart from tax effects) as if the fees were paid on a current basis. The effect of the Plan would merely be to defer the payment of fees that the applicants would otherwise be obligated to pay on a current basis.

Applicants' Conditions

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

1. With respect to the requested relief from rule 2a–7, any money market Fund that values its assets by the amortized cost method or the penny-rounding method will buy and hold Underlying Securities that determine the performance of Deferred Fee Accounts to achieve an exact match between such Fund's liability to pay deferred fees and the assets that offset that liability.

2. If a Fund purchases Underlying Securities issued by an affiliated Fund, the purchasing Fund will vote such shares in proportion to the votes of all other holders of shares of such affiliated Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–19528 Filed 7–31–96; 8:45 am]

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[Release No. 34–37478; File No. SR–BSE–96–8]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to Resumption of the Pilot Program Regarding Certain Procedures for the Handling of Market-On-Close Orders

July 25, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 8, 1996, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change, and on July 22, 1996, filed Amendment No. 1 to the proposed rule change,[3] as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The BSE has requested accelerated approval of the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange seeks to resume the pilot program for handling market-on-close orders and amend the procedures for the handling of such orders. These procedures mirror the procedures in place on the primary markets in order to ensure equal treatment of orders in both markets.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule is to resume the pilot program for procedures relating to handling market-on-close (''MOC'') orders on expiration days, non-expiration days and in market conditions where New York Stock Exchange, Inc. (''NYSE'') Rule 80A is in effect. The proposal also amends certain procedures to mirror those of the primary markets, for the handling of MOC orders on expiration days[4] so that the BSE does not become a haven for MOC orders that are prohibited on the primary markets.[5] In this way, all orders sent to the Exchange will receive equal treatment to orders sent to the primary markets.

The procedures for handling MOC orders on expiration days under the pilot program, include: (a) providing a 3:40 p.m. deadline for the entry of all MOC orders in all stocks, (b) prohibiting the cancellation or reduction of any MOC order in any stock after 3:40 p.m., (c) prohibiting order imbalances of 50,000 shares or more as soon as practicable after 3:40 p.m. in the pilot stocks and (d) limiting the entry of MOC orders after 3:40 p.m. to offsetting published imbalances. With respect to item (b) above, the Exchange will permit cancellations of MOC orders after 3:40 p.m. in those instances where a legitimate error has been made. The term ''pilot stocks'' refers to the list of stocks designated by the NYSE as pilot stocks for purposes of its auxiliary closing procedures.[6] Pursuant to

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

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Karen A. Aluise, Assistant Vice President, BSE To Elisa Metzger, Special Counsel, SEC, dated July 17, 1996.

[4] The term ''expiration days'' refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently (''Expiration Fridays'') and (2) the trading day on which end of calendar quarter index options expire (''QIX Expiration Days'').

[5] The BSE's auxiliary closing procedures for expiration days had been approved on a pilot basis until October 31, 1995. *See* Securities Exchange Act Release No. 34918 (October 31, 1994), 59 FR 55504 (''1994 Pilot Approval Order''). The BSE did not request an extension of the pilot program after that date.

[6] The Expiration Friday pilot stocks consists of the 50 most highly capitalized Standard & Poors (''S&P'') 500 stocks and any component stocks of the Major Market Index (''MMI'') not included therein. The QIX Expiration Day pilot stocks consist