of its assets to Executive Business Services, Inc. (''Executive'') in consideration for the assumption by Executive of all outstanding liabilities of applicant. The aggregate value of the outstanding liabilities of applicant. The aggregate value of the assets transferred was $54,000 and the liabilities assumed totaled approximately $184,000. Applicant was negotiating to acquire Mortgage Bankers Service Corp., a Pennsylvania Corporation. However the acquisition was abandoned. On April 26, 1996, applicant changed its name to Harcourt-Symes, Ltd.

6. Applicant had no assets or debts as of the time of the filing of the application and was not a party to any litigation or administrative proceeding. Applicant has approximately 317 shareholders.

Applicant's Legal Analysis

Applicant believes that an order declaring that it has ceased to be an investment company is appropriate. Applicant states that it mistakenly filed its notification of registration under section 8(a) because it believed that such registration was required in order for applicant to act as a business development company. Applicant states that (a) it is not engaged, does not hold itself out as being engaged, and does not propose to engage, in the business of investing, reinvesting or trading in securities as referred to in section 3(a)(1) of the Act; (b) it is not engaged and does not propose to engage in any of the activities described in section 3(a) (2) and (3) of the Act; and (c) it has withdrawn its election to be regulated as a business development company and is not seeking any assurances from the SEC as to its future status as an investment company under the Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–24649 Filed 9–25–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22235; 812–9982]

Morgan Stanley & Co. Incorporated; Notice of Application

September 20, 1996.

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

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the ''ACT'').

APPLICANT: Morgan Stanley & Co. Incorporated (''Morgan Stanley'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 12(d)(1) and 14(a) of the Act, and under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Morgan Stanley requests an order with respect to the AJL PEPS Trust (the ''AJL Trust'') and future trusts that are substantially similar to the AJL Trust and for which Morgan Stanley will serve as a principal underwriter (the ''New Trusts,'' and, together with the AJL Trust, the ''Trusts'') that would (a) permit other registered investment companies to own a greater percentage of the total outstanding voting stock (the ''PEPS'') [1] of any Trust than that permitted by section 12(d)(1), (b) exempt the New Trusts from the initial net worth requirements of section 14(a), and (c) permit the New Trusts to purchase U.S. government securities from Morgan Stanley at the time of a New Trust's initial issuance of PEPS.

FILING DATES: The application was filed on February 8, 1996 and amended on June 14, 1996 and September 18, 1996. By letter dated September 20, 1996, applicant's counsel stated that an additional amendment, the substance of which is incorporated herein, will be filed during the notice period.

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 October 15, 1996, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1585 Broadway, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney, at (202) 942–0579, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

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

Applicant's Representations

1. Each Trust will be a limited-life, grantor trust registered under the Act as a non-diversified, closed-end management investment company. Morgan Stanley will serve as a principal underwriter (as defined in section 2(a)(29) of the Act) of the PEPS issued to the public by each Trust.

2. Each Trust will, at the time of its issuances of PEPS, (a) enter into one or more forward purchase contracts (the ''Contracts'') with a counterparty to purchase a formulaically-determined number of specified equity security or securities (the ''Shares'') of one specified issuer, and (b) in some cases, purchase certain U.S. Treasury securities (''Treasuries''), which may include interest-only or principal-only securities maturing at or prior to the Trust's termination. The Trusts have purchased or will purchase the Contracts from counterparties that are not affiliated with either the relevant Trust or applicant. The investment objective of each Trust will be to provide to each holder of PEPS (''Holder'') (a) current cash distributions from the proceeds of any Treasuries, and (b) limited participation in, and, in some cases, limited exposure to, changes in the market value of the underlying Shares.

3. In all cases, the Share will trade in the secondary market and the issuer of the Shares will be a reporting company under the Securities Exchange Act of 1934. The number of Shares, or the value thereof, that will be delivered to a Trust pursuant to the Contracts may be fixed (*e.g.*, one Share per PEPS issued) or may be determined pursuant to a formula, the product of which will vary with the price of the Shares. A formula generally will result in each PEPS Holder receiving fewer Shares as the market value of such Shares increases, and more Shares as their market value decreases.[2] At the termination of each Trust, each Holder will receive the number of Shares per PEPS, or the value

[1] ''PEPS'' is an acronym for ''Premium Exchangeable Participating Shares.'' The voting stock of a Trust may have a different title, and acronym, reflecting the assets held by the Trust.

[2] A formula is likely to limit the Holder's participation in any appreciation of the underlying Shares, and it may, in some cases, limit the Holder's exposure to any depreciation in the underlying Shares. It is anticipated that the Holder will receive a yield greater than the ordinary divident yield on the Shares at the time of the issuance of the PEPS, which is intended to compensate Holders for the limit on the Holder's participation in any appreciation of the underlying Shares. In some cases, there may be an upper limit on the value of the Shares that a Holder will ultimately receive.

thereof, as determinated by the terms of the Contracts, that is equal to the Holder's *pro rata* interest in the Shares or amount received by the Trust under the Contracts.

4. PEPS issued by the AJL Trust are listed on the New York Stock Exchange, Inc. PEPS issued by the New Trusts will be listed on a national securities exchange or traded on the National Association of Securities Dealers Automated Quotation System. Thus, the PEPS will be ''national market system'' securities subject to public price quotation and trade reporting requirements. After the PEPS are issued, the trading price of the PEPS is expected to vary from time to time based primarily upon the price of underlying Shares, interest rates, and other factors affecting conditions and prices and the debt and equity markets. Morgan Stanley currently intends, but will not be obligated, to make a market in the PEPS of each Trust.

5. Each Trust will be internally managed by three trustees and will not have any separate investment adviser. The trustees will have limited or no power to vary the investments held by each trust. The day-to-day administration of each Trust will be carried out by a bank qualified to serve as a trustee under the Trust Indenture Act of 1939, as amended. Such bank, or another bank also meeting such requirements, also will act as custodian for each Trust's assets and as paying agent, registrar, and transfer agent with respect to the PEPS of each Trust. Such bank or banks will have no other affiliation with, and will not be engaged in any other transaction with, any Trust.

6. The trustees for the AJL Trust have the power, but not the obligation, to sell the Contracts only in the limited circumstances of (a) a 50% decline in the value of the Shares from the date of the original issuance of the PEPS or (b) the bankruptcy or insolvency of an issuer of the Shares. In the event of any such sale of the Contracts, any Treasuries remaining in the AJL Trust also will be liquidated, the proceeds from the sale of the Contracts and any Treasuries will be distributed *pro rata* to the Holders, and the Trust will be terminated. The New Trust will be structured so that the trustees either are not authorized to sell the Contracts or Treasuries under any circumstances, or are permitted to sell them under the same or more limited circumstances than is the case in connection with the AJL Trust. In the event of the bankruptcy or insolvency of any counterparty to a Contract with a Trust, the obligations of such counterparty under that Contract will be accelerated and the available proceeds thereof will be distributed to the PEPS Holders.

7. The trustees of each Trust will be selected initially by Morgan Stanley, together with any other initial Holders, or by the grantors of such Trust. The Holders of each Trust will have the right, upon the declaration in writing or vote of more than two-thirds of the outstanding PEPS of the Trust, to remove a trustee. Holders will be entitled to a full vote for each PEPS held on all matters to be voted on by Holders and will not be able to cumulate their votes in the election of trustees. The investment objectives and policies of each Trust may be changed only with the approval of a ''majority of the Trust's outstanding PEPS'' [3] or any greater number required by the Trust's constituent documents. Unless Holders so request, it is not expected that the Trusts will hold any meetings of Holders, or that Holders will ever vote.

8. The Trusts will not be entitled to any rights with respect to the Shares until any Contracts requiring delivery of the Shares to the Trust are settled, at which time the Shares will be promptly distributed to Holders. The Holders, therefore, will not be entitled to any rights with respect to the Shares (Including voting rights or the right to receive any dividends or other distributions in respect thereof) until receipt by them of the Shares at the time the Trust is liquidated.

9. Each Trust will be structured so that its organizational and ongoing expenses will not be borne by the Holders, but rather, directly or indirectly, by Morgan Stanley, the counterparties, or another third party, as will be described in the prospectus for the relevant Trust. At the time of the original issuance of the PEPS of any Trust, there will be paid to each of the administrator, the custodian, and the paying agent, and to each trustee, a one-time amount in respect of such agent's fee over its term. Any expenses of the trust in excess of this anticipated amount will be paid as incurred by a party other than the Trust itself (which party may be Morgan Stanley).

Applicant's Legal Analysis

A. Sections 12(d)(1) and 14(a)

1. Section 6(c) of the Act provides that the SEC may exempt persons or transactions 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.

2. Section 12(d)(1)(A) of the Act prohibits any registered investment company from owning more than 3% of the total outstanding voting stock of any other investment company. Section 12(d)(1)(C) of the ACt similarly prohibits any investment company and other investment companies having the same investment adviser from owning more than 10% of the total outstanding voting stock of any other closed-end investment company.

3. Applicant believes, in order for the Trusts to be marketed more successfully, and to be traded at a price that most accurately reflects their asset value, that it is necessary for the PEPS of each Trust to be offered to large investment companies and investment company complexes. Applicant states that large investment companies and investment company complexes seek to spread fixed costs of analyzing specific investment opportunities by making sizable investments in those opportunities that prove attractive. Conversely, it may not be economically rational for such investors, or their advisers, to take the time to review an investment opportunity if the amount that they would ultimately be permitted to purchase is immaterial in light of the total assets of the investment company or investment company complex. Therefore, applicant argues that, in order for the Trusts to be economically attractive to large investment companies and investment company complexes, such investors must be able to acquire PEPS in each Trust in excess of the limitations imposed by section 12(d)(1). Applicant requests that the SEC issue an order under section 6(c) exempting the Trusts from such limitations.

4. Section 12(d)(1) is intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the ''pyramiding'' of control over portfolio funds by fund-holding companies and the layering of costs to investors.

5. The pyramiding concerns fall into two categories. One arises from the potential for undue influence resulting from the pyramiding of voting control of the acquired investment company. Applicant believes that this concern generally does not arise in the case of the Trusts because neither the trustees nor the Holders will have the power to vary the investments held by each Trust or to acquire or dispose of the assets of the Trusts (except for the limited ability

[3] A ''majority of the Trust's outstanding PETS'' means the lesser of (a) 67% of the PEPS represented at a meeting at which more than 50% of the outstanding PEPS are represented, and (b) more than 50% of the outstanding PETS.

discussed previously that the trustees of the AJL Trust have, and the trustees of the New Trusts may have, to sell the assets of, and terminate, the Trusts). To the extent that Holders can change the composition of the board of trustees or the fundamental policies of each Trust by vote, applicant argues that any concerns regarding undue influence will be eliminated by the provision that, in the case of the New Trusts, the charter documents will require, and, in the case of the AJL Trust, the investment companies purchasing PEPS in reliance on this exemption will furnish an undertaking, in each case, that any investment companies owning voting stock of any Trust in excess of the limits imposed by sections 12(d)(1)(A) and 12(d)(1)(C) will vote their PEPS in proportion to the votes of all other Holders.

6. The second concern with respect to pyramiding is that an acquiring investment company might be able to influence unduly the persons operating the acquired investment fund. This undue influence could arise through a threat to redeem assets invested in the underlying fund at a time, or in a manner, which is disadvantageous to that fund, or to threaten to vote shares in that fund in a manner inconsistent with the best interests of that fund and its shareholders. Applicant believes that this concern does not arise in the case of the Trusts because the PEPS will not be redeemable and because the trustees' management control will be so limited.

7. The second major objective of section 12(d)(1) is to avoid imposing on investors the excessive costs and fees that may result from multiple layers of investments. Excessive costs can result from investors paying double sales charges when purchasing shares of a fund which, in turn, invests in other funds, or from duplicative expenses arising from the operation of two funds in place of one. Applicant believes that neither of these concerns arises in the case of the Trusts because of the limited on-going fees and expenses incurred by the Trusts and the fact that generally such fees and expenses will be borne, directly or indirectly, by Morgan Stanley or another third party, not by the Holders. In addition, the Holders will not, as a practical matter, bear the organization expenses (including underwriting expenses) of the Trusts. Applicant asserts that such organization expenses effectively will be borne by the counterparties in the form of a discount in the price paid to them for the Contracts, or will be borne directly by Morgan Stanley, the counterparties, or other third parties. Thus, a Holder will not pay duplicative charges to purchase its investment in any Trust. Finally, there will be no duplication of advisory fees because the Trusts will be internally managed by their trustees.

8. Applicant believes that the investment product offered by the Trusts serves a valid business purpose. The Trusts, unlike most registered investment companies, are not marketed to provide investors with either professional investment asset management or the benefits of investment in a diversified pool of assets. Rather, applicant asserts that the PEPS are intended to provide Holders with a security having unique payment and risk characteristics, including an anticipated higher yield than the ordinary dividend yield on the Shares at the time of the issuance of the PEPS.

9. Applicant believes that the purposes and policies of section 12(d)(1) are not implicated by the Trusts and that the requested exemption from section 12(d)(1) is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

10. Section 14(a) of the Act requires, in pertinent part, that an investment company have a net worth of at least $100,000 before making any public offering of its shares. The purpose of section 14(a) is to ensure that investment companies are adequately capitalized prior to or simultaneously with the sale of their securities to the public. Rule 14a-3 exempts from section 14(a) unit investment trusts that meet certain conditions in recognition of the fact that, once the units are sold, a unit investment trust requires much less commitment on the part of the sponsor than does a management investment company.

11. Applicant argues that, while the Trusts are classified as management companies, they have the characteristics of unit investment trusts that are relevant to the rule 14a–3 exemption. Rule 14a–3 provides that a unit investment trust investing in eligible trust securities shall be exempt from the net worth requirement, provided that the trust holds at least $100,000 of eligible trust securities at the commencement of a public offering. Investors in the Trusts, like investors in a traditional unit investment trust, will not be purchasing interests in a managed pool of securities, but rather in a fixed and disclosed portfolio that is held until maturity. Applicant believes that the make-up of each Trust's assets, therefore, will be ''locked-in'' for the life of the portfolio, and there is no need for an ongoing commitment on the part of the underwriter.

12. Applicant states that, in order to ensure that each Trust will become a going concern, the PEPS of each Trust will be publicly offered in a firm commitment underwriting, registered under the Securities Act of 1933, and resulting in net proceeds to each Trust of at least $10,000,000. Prior to the issuance and delivery of the PEPS of each Trust to the underwriters, the underwriters will enter into an underwriting agreement pursuant to which they will agree to purchase the PEPS subject to customary conditions to closing. The underwriters will not be entitled to purchase less than all of the PEPS of each Trust. Accordingly, applicant states that either the offering will not be completed at all or each Trust will have a net worth substantially in excess of $100,000 on the date of the issuance of the PEPS. Applicant also does not anticipate that the net worth of the Trusts will fall below $100,000 before they are terminated.

13. Applicant requests that the SEC issue an order under section 6(c) exempting the New Trusts from any requirements of section 14(a). Applicant believes that such exemption is appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the Act.

B. Section 17(a)

1. Sections 17(a)(1) and 17(a)(2) of the Act generally prohibit the principal underwriter of any investment company from selling or purchasing any securities to or from that investment company. The result of these provisions is to preclude the Trusts from purchasing Treasuries from Morgan Stanley.

2. Section 17(b) of the Act provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Applicant requests an exemption from sections 17(a)(1) and 17(a)(2) to permit the New Trusts to purchase Treasuries from applicant at the time of the New Trusts' entry into Contracts and issuance of PEPS.

3. Applicant states that the policy rationale underlying section 17(a) is the concern that an affiliated person of an investment company, by virtue of such relationship, could cause an investment company to purchase securities of poor

quality from the affiliated person or to overpay for any securities. Applicant argues that it is unlikely that Morgan Stanley would be able to exercise any adverse influence over the Trusts with respect to purchases of Treasuries because Treasuries do not vary in quality and are traded in one of the most liquid markets in the world. Treasuries are available through both primary and secondary dealers, making the Treasuries market very competitive. In addition, market prices on Treasuries can be confirmed on a number of commercially available information screens. Applicant argues that because Morgan Stanley is one of a limited number of primary dealers in Treasuries, Morgan Stanley will be able to offer the Trusts prompt execution of their Treasury purchases at very competitive prices.

4. Applicant states that it is only seeking relief from section 17(a) with respect to the initial purchase of the Treasuries and not with respect to an on-going course of business. Consequently, investors will know before they purchase a Trust's PEPS the Treasuries that will be owned by the Trust and the amount of the cash payments that will be provided periodically by the Treasuries to the Trust and distributed to Holders. Applicant also asserts that whatever risk there is of overpricing the Treasuries will be borne by the counterparties and not by the Holders because the cost of the Treasuries will be calculated into the amount paid by the Contracts. Applicant argues that, for this reason, the counterparties will have a strong incentive to monitor the price paid for the Treasuries, because any overpayment could result in a reduction in the amount that they would be paid on the Contracts.

5. Applicant believes that the terms of the proposed transaction are reasonable and fair and to not involve overreaching on the part of any person, that the proposed transaction is consistent with the policy of each of the Trusts, and that the requested exemption is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policies and provisions of the Act.

Applicant's Conditions

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

1. Any investment company owning voting stock of any Trust in excess of the limits imposed by section 12(d)(1) of the Act will be required by the Trust's charter documents, or will undertake, to vote its Trust shares in proportion to the vote of all other Holders.

2. The trustees of each Trust, including a majority of the trustees who are not interested persons of the Trust, (a) will adopt procedures that are reasonably designed to provide that the conditions set forth below have been complied with; (b) will make and approve such changes as deemed necessary; and (c) will determine that the transactions made pursuant to the order were effected in compliance with such procedures.

3. The Trusts (a) will maintain and preserve in an easily accessible place a written copy of the procedures (and any modifications thereto), and (b) will maintain and preserve for the longer of (x) the life of the Trusts and (y) six years following the purchase of any Treasuries, the first two years in an easily accessible place, a written record of all Treasuries purchased, whether or not from applicant, setting forth a description of the Treasuries purchased, the identity of the seller, the terms of the purchase, and the information or materials upon which the determinations described below were made.

4. The Treasuries to be purchased by each Trust will be sufficient to provide payments to PEPS Holders that are consistent with the investment objectives and policies of the Trust as recited in the Trust's registration statement and will be consistent with the interests of the Trust and the Holders of its PEPS.

5. The terms of the transactions will be reasonable and fair to the Holders of the PEPS issued by each Trust and will not involve overreaching of the Trust or the Holders of PEPS thereof on the part of any person concerned.

6. The fee, spread, or other remuneration to be received by Morgan Stanley will be reasonable and fair compared to the fee, spread, or other remuneration received by dealers in connection with comparable transactions at such time, and will comply with section 17(e)(2)(C) of the Act.

7. Before any Treasuries are purchased by the Trust, the Trust must obtain such available market information as it deems necessary to determine that the price to be paid for, and the terms of, the transaction is at least as favorable as that available from other sources. This shall include the Trust obtaining and documenting the competitive indications with respect to the specific proposed transaction from two other independent government securities dealers. Competitive quotation information must include price and settlement terms. These dealers must be those who, in the experience of the Trust's trustees, have demonstrated the consistent ability to provide professional execution of Treasury transactions at competitive market prices. They also must be those who are in a position to quote favorable prices.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–24699 Filed 9–25–96; 8:45 am]

BILLING CODE 8010–01–M

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To Be Published].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: To Be Published.

CHANGE IN THE MEETING: Date Change/ Time Change.

The closed meeting scheduled for Friday, September 27, 1996, at 9:30 a.m., has been changed to Thursday, September 26, 1996, at 4:30 p.m.

Commissioner Wallman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: September 24, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–24893 Filed 9–24–96; 3:53 pm]

BILLING CODE 8010–01–M

[Release No. 34–37706; File No. SR–Amex–96–32]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., To Amend the Firm Facilitation Exemption

September 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.