

[Rel. No. IC-22300; 812-10368]

**HLM Global Equity Limited Partnership, et al.; Notice of Application**

October 28, 1996.

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

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

**APPLICANTS:** HLM Global Equity Limited Partnership (the "Partnership"), Harding, Loevner Funds, Inc. (the "Company"), and Harding Loevner Management, L.P. ("HLM").

**RELEVANT ACT SECTIONS:** Order requested under section 17(b) of the Act for an exemption from section 17(a) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit the Partnership to transfer substantially all of its assets and liabilities to a series of the Company in exchange for the series' shares, which then would be distributed *pro rata* to partners of the Partnership.

**FILING DATES:** The application was filed on September 27, 1996. By letter dated October 24, 1996, applicants' counsel stated that an 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 November 22, 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, 600 Fifth Avenue, 26th Floor, New York, New York 10020.

**FOR FURTHER INFORMATION CONTACT:** Brian T. Hourihan, Senior Counsel, at (202) 942-0526, or Mary Kay Frech, 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. The Partnership is a New Jersey limited partnership with an investment objective of seeking long-term capital appreciation through investments in equity securities of companies based both in and outside the United States. Investors may purchase or redeem Partnership interests ("Units") at net asset value on a quarterly basis. The Partnership is not registered under the Act in reliance on section 3(c)(1) of the Act. The Units are offered as private placements under section 4(2) of the Securities Act of 1933 and Regulation D promulgated thereunder, and are sold to institutional investors and high net worth individuals. The Partnership's operations are governed by a limited partnership agreement (the "Partnership Agreement").

2. HLM is a registered investment adviser under the Investment Advisers Act of 1940. HLM serves as the sole general partner of the Partnership and has exclusive management and control of the business and assets of the Partnership. HLM has authority, on behalf of the Partnership, to do any acts that it deems advisable to further the purposes of the Partnership and that are not prohibited by the Partnership Agreement or applicable law.

3. The Company, a Maryland corporation, is a registered open-end investment company formed as a series company. Currently, the Company has four portfolios in registration. The Company proposes to offer a portfolio designated as the Global Equity Portfolio (the "GE Portfolio"), which will correspond to the Partnership in terms of investment to objectives and policies.

4. The Company proposes to enter into an advisory agreement with HLM, which will provide advisory and portfolio management services to the Company that are substantially the same as those it currently renders to the Partnership. In addition, the Company proposes to enter into an administration agreement with AMT Capital Services, Inc. ("AMT Capital") for the provision of administrative services to, and assistance in managing and supervising all aspects of, the general day-to-day business activities and operations of the Company other than investment advisory activities. The Company will pay AMT Capital a monthly fee based on the average daily net assets of the Company. The GE Portfolio will pay a proportionate share of the fee based on its relative net assets.

5. Applicants propose that, pursuant to an Agreement and Plan of Exchange (the "Plan"), the Company, on behalf of the GE Portfolio, will acquire the assets and liabilities of the Partnership in exchange for GE Portfolio shares (the "Exchange"). The GE Portfolio shares delivered to the Partnership in the Exchange will have an aggregate net asset value equivalent to the net asset value of the assets transferred by the Partnership to the Company (except for the effect of organizational expenses paid by the GE Portfolio). Upon the consummation of the Exchange, the Partnership will distribute the GE Portfolio shares to its partners, with each partner receiving a number of shares having an aggregate net asset value equivalent to the net asset value of the Units in the Partnership held by such partner prior to the Exchange (except for the effect of organizational expenses paid by the GE Portfolio and the effect of any retained assets and liabilities). The Partnership may retain sufficient assets to pay any accrued expenses that are not transferred to the GE Portfolio and may retain any assets that the GE Portfolio is not permitted to purchase or that are reasonably determined to be unsuitable for it. Assets retained in excess of any amounts needed to pay expenses will be distributed *pro rata* to the partners of the Partnership. The Partnership will be liquidated and dissolved following the distribution.

6. The Partnership Agreement does not contemplate the conversion of the Partnership into a mutual fund format. Accordingly, the general partner, HLM, could be deemed not to have the authority under the terms of the Partnership Agreement to carry out the Plan unilaterally. HLM, therefore, has proposed in the proxy materials to be delivered to each limited partner that the limited partners approve the Plan and an amendment to the Partnership Agreement to allow it to carry out the terms of the Plan. The proxy materials will describe the nature of and reasons for the Exchange, the tax and other consequences to the limited partners, and other relevant matters, including investment objectives and policies, fee structures, and financial information. Limited partners who do not wish to participate in the conversion of the Partnership will have adequate opportunity to redeem their Partnership Units before the conversion occurs. As a result, no limited partner will receive GE Portfolio shares in exchange for his or her Partnership Units unless such limited partner determines to retain his or her investment.

7. The expenses of the Exchange will be borne by HLM. GE Portfolio organizational expenses will be paid by GE Portfolio and amortized over five years. The amortization of such organizational expenses will be included in the calculation of annual expenses subject to an expense limitation. Any unamortized organizational expenses of the Company at the time HLM withdraws its initial investment in the Company will be borne by HLM and not the Company.

8. The management fees for the GE Portfolio will not exceed the maximum fees currently paid by the limited partners in the Partnership. Applicants expect that other GE Portfolio expenses generally will be higher as a percentage of net asset value than the expenses of the Partnership. This is primarily because of the increased costs of operating as a registered investment company and compliance with additional regulatory requirements. HLM will, however, place a cap on annual expenses of the GE Portfolio at 1.25% of the average daily net assets. This cap will continue at the discretion of, and until further notice from, HLM.

9. The Exchange will establish the GE Portfolio as a successor investment vehicle to the Partnership. After the exchange is accomplished, HLM intends, for the foreseeable future, to manage the assets of the GE Portfolio in substantially the same manner as it had previously managed the assets of the Partnership. The Exchange will permit partners to pursue as shareholders of the GE Portfolio the same investment objectives and policies they were expecting from the Partnership without sacrificing the pass-through tax features of the Partnership. In addition, shareholders of the GE Portfolio will be able to purchase and redeem shares on each business day, as opposed to only once per quarter as currently provided under the Partnership Agreement.

10. The Company's board of directors and HLM have considered the desirability of the Exchange from the respective points of view of the Company and the Partnership. A majority of the members of the Company's board (including a majority of the independent directors) and HLM have approved the Exchange and have concluded respectively that: (a) the Exchange is desirable as a business matter for both the Company and the Partnership; (b) the Exchange is in the best interests of the Company and the Partnership; (c) the Exchange is reasonable and fair, does not involve overreaching, and is consistent with the policies of the Act; (d) the Exchange is consistent with the policies of the

Company and the Partnership; and (e) the interests of existing shareholders in the Company and existing partners in the Partnership will not be diluted as a result of the Exchange. These findings, and the basis upon which such findings were made, are fully recorded in the respective minute books of the Company and HLM.

11. The Exchange will not be effected unless and until the registration statements have been declared effective, the SEC has issued the requested order, and the Company has received a favorable opinion of counsel with respect to the tax consequences of the Exchange.

#### Applicants' Legal Analysis

1. Section 17(a) of the Act prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, from selling to or purchasing from such company any security or other property. Section 2(a)(3) of the Act defines an "affiliated person," among other things, as any person directly or indirectly controlling, controlled by, or under common control with, such other person, any officer, director, partner, copartner, or employee of such other person, and, if such other person is an investment company, any investment adviser thereof. Therefore, the Partnership may be considered an affiliated person of the Company because the Partnership and the Company may be deemed to be under the common control of HLM, as the investment adviser. Similarly, the Partnership may be an affiliated person of an affiliated person of the Company because HLM is the general partner of the Partnership and also is the investment adviser to the Company. Thus, the proposed Exchange may be prohibited by section 17(a).

2. 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 on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Applicants believe that the terms of the proposed Exchange are consistent with the standards of section 17(b). They represent, among other things, that the investment objectives and policies of the GE Portfolio are substantially similar to the Partnership and that the limited partners will hold substantially the same assets as GE Portfolio

shareholders as they had previously held as limited partners. Applicants state that the Exchange will result in no gain or loss being recognized by the partners of the Partnership. Thus, the partners will become investors in an entity that offers greater liquidity and other advantages, without immediate tax consequences and without having incurred transaction and brokerage charges in order to do so. In addition, the shareholders of the Company will be able to purchase and redeem shares on each business day, as opposed to only once per quarter as is currently provided under the Partnership Agreement.

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

Margaret H. McFarland,  
*Deputy Secretary.*

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[Release No. 35-26597]

#### Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

October 25, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 18, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.