operating at power. The staff had reviewed the licensee's safety evaluation of its crane, including the crane upgrades, and concluded that all safety concerns had been addressed and resolved and that the planned movement of spent fuel to the dry storage facility during plant operation would be safe and in accordance with all license requirements. However, the NRC also determined that because the possibility of an unreviewed safety question existed before GPU made modifications to upgrade its reactor building crane, GPU would have to submit a request for a license amendment for the proposed cask movement. If GPU submits such an amendment request to the NRC, pursuant to 10 CFR 50.91,[1] it will be published in the **Federal Register** for public comment, and an opportunity for a public hearing will be provided. The Petitioners and other interested members of the public then would have the opportunity to express their concerns about the amendment. As noted above, the licensee cannot transfer the fuel while operating with its current crane configuration without being issued a license amendment.[2]

III. Conclusion

The NRC staff has reviewed the Petitioners' request that GPU shut down its reactor during its transfer of fuel from wet to dry storage. The licensee does not now have a request before the Commission to amend its license to allow such a transfer. As a result, before any Commission action could even be contemplated, the licensee would have to make such a request pursuant to NRC regulations, with the aforementioned opportunities for public participation in the resolution of any such request. For this reason, the Petition is dismissed as premature.

A copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission to review as stated in 10 CFR 2.206(c). This decision will become the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland this 16th day of June 1997.

For The Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16176 Filed 6–19–97; 8:45 am]

BILLING CODE 7590–01–P

[1] 10 CFR 50.91 specifies the Commission procedures to be followed when it receives an application requesting an amendment to an operating license, including procedures for consulting the State in which the facility is located and procedures for notifying the public of the license amendment and the opportunity for a hearing.

[2] The licensee is currently considering various options for moving the spent fuel from wet to dry storage, such as requesting a license amendment based on already completed upgrades to the reactor building crane, transferring the spent fuel when the reactor is shut down, and further upgrading the reactor building crane to meet the criteria for a single-failure-proof crane in which case an amendment to transfer fuel from wet to dry storage may not be required. The Commission has not required license amendments for facilities handling heavy loads that employ a crane meeting the specifications and design criteria in NUREG–0554, ''Single-Failure-Proof Cranes for Nuclear Power Plants.'' However, NRC technical staff will evaluate any option selected to ensure that all safety concerns are adequately addressed and documented.

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Evidence of Coverage Under a Group Health Plan; OMB 3220–0189. Under Section 7(d) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) administers the Medicare program for individuals covered by the railroad retirement system. Under sections 1837(i) and 1839(b) of the Social Security Act, qualified railroad retirement beneficiaries applying for Medicare (Part B) may be entitled to a Special Enrollment Period (SEP), and/or premium surcharge relief because of coverage under an Employer Group Health Plan (EGHP). The provisions relating to SEP and premium surcharge relief for Medicare benefits are found in Sections 1837(i) and 1839(b) of the Social Security Act and in regulations 42 CFR 407.20, 407.25 and 408.24.

In order for the RRB to determine entitlement to a SEP and/or premium surcharge relief because of coverage under an EGHP, it needs to obtain information regarding the claimant's EGHP coverage, if any. The RRB utilizes Form RL–311–F, Evidence of Coverage Under An Employer Group Health Plan, to obtain the necessary information from railroad employers. Completion is voluntary. One response is requested for each RRB inquiry.

The RRB proposes a minor editorial change to Form RL–311–F to incorporate language required by the Paperwork Reduction Act of 1995. No other changes are proposed. The completion time for the RL–311–F is estimated at 10 minutes per response. The RRB estimates that approximately 1,000 responses are received annually.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (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. Written comments should be received within 60 days of this notice.

Chuch Mierzwa,

Clearance Officer.

[FR Doc. 97–16156 Filed 6–19–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1637/803–110]

Arthur Andersen Financial Advisers; Notice of Application

June 16, 1997.

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

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

APPLICANT: Arthur Andersen Financial Advisers (''AAFA'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 203A(c) from section 203A(a).

SUMMARY OF APPLICATION: Applicant requests an order to permit it to continue to be registered with the SEC as an investment adviser.

FILING DATES: The application was filed on January 30, 1997, and amended on June 11, 1997.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 7, 1997, and should be accompanied by proof of service on applicant, 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 5th Street, NW., Washington, DC 20549. Applicant, 33 West Monroe Street, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: Jennifer S. Choi, Special Counsel, at (202) 942–0725 (Division of Investment Management, Task Force on Investment Adviser Regulation).

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

Applicant's Representations

1. Applicant was created as an Illinois general partnership in 1994. Its general partners are Arthur Andersen LLP (''Arthur Andersen''), an Illinois limited liability partnership, and Arthur Andersen, Inc., a Delaware corporation and wholly-owned subsidiary of Arthur Andersen.[1] Arthur Andersen provides accounting, auditing, tax consulting, business systems consulting, corporate finance and other related services.

2. Applicant was established to supervise the investment advice rendered in connection with personal and institutional financial planning and employee benefit plan consulting services (collectively, ''investment advisory services'') provided by partners and professional employees of Arthur Andersen to clients of Arthur Andersen.[2] Personal financial planning services may include such things as personal tax and cash flow planning, estate planning, retirement planning, educational funding, insurance planning, compensation and benefits planning, and the preparation of financial analyses and personal financial statements reflecting net worth, cash flow, and income tax projections. In this connection, applicant supervises matters such as the allocation of assets among different investment categories, portfolio diversification, managing portfolio risk and general economic and financial topics.

3. Applicant also supervises activities involving similar types of investment advisory services provided to employee benefit plan clients of Arthur Andersen. These services include performing an actuarial study of the employee benefit plan and its related cash flows to assist the employee benefit plan client in developing an asset allocation matrix. An employee benefit plan client may request that applicant review the plan's portfolio for compliance with the plan's investment objectives, compare a money manager's or mutual fund's performance with those of agreed upon market indices or benchmarks, and report material changes relating to a money manager. As part of its investment advisory services, applicant conducts educational seminars and provides its clients other educational tools, such as workshops, software and newsletters. Applicant, from time to time, provides independent fiduciary services for certain clients governed by the Employee Retirement Income Security Act of 1974. Neither applicant nor Arthur Andersen has custody of client assets in connection with the provision of investment advisory services. In addition, neither applicant nor Arthur Andersen manages client accounts on either a discretionary or a non-discretionary basis.

4. Since March 1995, applicant has been registered as an investment adviser with the SEC. Applicant provides investment advisory services from 51 offices located in 39 states (which includes the District of Columbia and the Commonwealth of Puerto Rico) to over 500 clients nationwide.

5. Applicant has established and maintains a strong centralized form of governance to supervise effectively these investment advisory services. Applicant is governed by an advisory board of Arthur Andersen partners and principals. Applicant has established policies regarding the scope and content of any investment advice rendered by applicant and is responsible for supervising compliance with these policies.

6. On October 11, 1996, the National Securities Markets Improvement Act of 1996 (''1996 Act'') was enacted. Title III of the 1996 act, the Investment Advisers Supervision Coordination Act (''Coordination Act''), added section 203A to the Advisers Act, which allocates regulatory responsibilities between federal and state securities regulators for the registration and oversight of investment advisers. Section 203A(a)(1) prohibits an investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business from registering with the SEC unless the investment adviser (i) has assets under management of $25 million or more or (ii) acts as an investment adviser to an investment company registered under section 8 of the Investment Company Act of 1940 (''1940 Act''). Section 203A(a)(2) defines the phrase ''assets under management'' as the securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services. The states may require registration of investment advisers that are not subject to SEC registration. The extent to which a state may require registration of such investment advisers, however, is subject to a national de minimus standard. The Coordination Act added section 222 to the Advisers Act, which, among other things, exempts investment advisers from the registration requirements of a state if they do not have a place of business[3] located in the state and have had fewer than six clients during the preceding 12 months who are residents of the state.

7. Applicant does not actively manage client securities portfolios, either on a discretionary or non-discretionary basis, and does not provide ''continuous and regular supervisory or management services'' with respect to customer accounts.[4] Nor does applicant act as an

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[1] Arthur Andersen, Inc. was organized under Delaware corporate law for purposes of holding the Arthur Andersen name in Delaware. It is not an operating company, but merely holds some ownership interests in entities affiliated with Arthur Andersen.

[2] Arthur Andersen received a no-action letter from the Division of Investment Management in reliance upon which the applicant registered under the Advisers Act in connection with investment advisory services provided by Arthur Andersen partners and professional employees to the extent that these services are supervised by and in accordance with policies and procedures established by applicant. *See* Arthur Andersen & Co. (pub. avail. July 8, 1994) (''Arthur Andersen Letter'').

[3] Rule 222–1 defines ''place of business'' of an investment adviser to mean an office at which the investment adviser regularly provides investment advisory services, solicits, meets with, or otherwise communicates with clients and any other location that is held out to the general public as a location at which the investment adviser provides investment advisory services, solicits, meets with, or otherwise communicates with clients. 17 CFR 275.222–1.

[4] Instruction 8(c) to Form ADV–T states that accounts over which an adviser has discretionary authority and for which it provides ongoing supervisory or management services and accounts over which an adviser does not have discretionary

investment adviser to an investment company registered under the 1940 Act. Furthermore, applicant maintains its principal office and place of business in Illinois, which does regulate applicant as an investment adviser. Therefore, in the absence of exemptive relief, applicant believes section 203A(a)(1) would prohibit applicant from registering with the SEC as an investment adviser.

Applicant's Legal Analysis

1. Section 203A(c) authorizes the SEC to permit an investment adviser to register with the SEC if prohibiting registration would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A. For the reasons discussed below, applicant believes that it meets the standards for exemptive relief under section 203A(c).

2. Applicant believes Congress intended section 203A to streamline the registration and oversight of investment advisers by dividing responsibilities between the SEC and the states to make more efficient use of the limited resources of federal and state governments. To this end, applicant notes that Congress determined that the states should be responsible for regulating investment advisers ''whose activities are likely to be concentrated in their home state,'' but ''[l]arger advisers, with national businesses'' should be regulated by the SEC and be ''subject to national rules.'' [5] Applicant submits that Congress chose an assets-under-management requirement as a rough proxy that would divide responsibilities between the SEC and the states on the theory that investment advisers managing $25 million or more in assets are likely to be national investment advisers that should be subject to the national rules of the SEC, while investment advisers managing under $25 million are likely to be small investment advisers that should be subject to the local rules of the various states.

3. Applicant believes that Congress recognized that the assets-under-management requirement does not precisely differentiate national investment advisers from local investment advisers, and that some national investment advisers may not qualify for registration with the SEC under the test formulated by Congress. Applicant states that Congress noted that ''the definition 'assets under management' requires that there be continuous and regular supervisory or management services—a standard which may, in some cases, exclude firms with a national or multistate practice from being able to register with the [SEC].'' [6] To remedy any unfairness, burdens, or inconsistencies caused by the assets-under-management requirement, applicant notes that Congress directed the SEC to use its exemptive authority to ''permit, where appropriate, the registration of such firms'' with the SEC and to address situations in which investment advisers with a ''national or multistate practice'' were otherwise prohibited from registering with the SEC.[7]

4. Applicant asserts that it engages in a national, multistate practice and, therefore, is the type of investment adviser that Congress directed the SEC to consider exempting under section 203A(c). Applicant conducts its investment advisory services from 51 offices in 39 states to over 500 clients nationwide. Applicant claims that the extent of applicant's investment advisory services means that it does not qualify for the national de minimis standard, as set forth in section 222 of the Advisers Act, in 38 states (including the District of Columbia and the Commonwealth of Puerto Rico) because either it has a place of business in those states or has provided investment advisory services to more than five clients during the preceding 12 months who are residents of those states. Applicant also states that it qualifies for a state exemption from registration that is broader than the national de minimis standard in only one state. Consequently, applicant represents that it is legally obligated to register under the investment adviser statutes in 37 states (including the District of Columbia and the Commonwealth of Puerto Rico).[8]

5. Applicant asserts that prohibiting its continued registration with the SEC would be unfair because the applicant's investment advisory business is substantially similar to that of other national investment advisers that are eligible for SEC registration and oversight. Applicant notes that it and other national investment advisers provide investment advisory services to clients throughout the nation, and are registered as investment advisers with the SEC and multiple states. Applicant also notes that the primary difference between applicant and other national investment advisers is the manner in which client accounts are managed. Pursuant to the Arthur Andersen Letter, applicant submits that it was permitted to register as an investment adviser, in lieu of Arthur Andersen so registering, to supervise the activities of partners and professional employees of Arthur Andersen, but the investment advisory services of applicant were restricted so that it cannot exercise discretionary authority over client accounts or provide investment advice concerning specific securities or mutual funds. Applicant asserts that the fact that its business is restricted by the terms of the Arthur Andersen Letter does not diminish in any way the national stature of its business and that it should be able to continue under the registration and oversight of the SEC, just as other, similarly situated national investment advisers.

6. Applicant asserts that it would be a burden on interstate commerce if it is prohibited from being registered with and under the oversight of the SEC. Applicant believes that continued registration with and oversight by the SEC would promote the advisory board's uniform policies and procedures and facilitate centralized compliance standards.

7. Applicant also believes that it would be inconsistent with the purposes of section 203A if it is prohibited from being registered with the SEC. Applicant asserts that Congress intended that national investment advisers remain under SEC registration and oversight, in part, to focus SEC supervision and examination resources on investment advisers involved in interstate commerce. Applicant contends that the centralized nature of applicant's activities lends itself to supervision and examination by one regulatory body. Applicant also believes that Congress established a method, which was not intended as the sole method, to identify and divide investment advisers with a national presence and those with a local presence based upon assets under management. Applicant argues that Congress recognized the imprecision of this rough proxy and, therefore, directed the SEC to address those cases in which

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authority, but has an ongoing responsibility to select or make recommendations, based upon the needs of the client, as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the client, is responsible for arranging or effecting the purchase or sale are considered to be the subject of continuous and regular supervisory or management services within the meaning of section 203A(a)(2). Applicant states that it does not satisfy either of these provisions.

[5] S. Rep. No. 293, 104th Cong. 2d Sess. 4 (1996).

[6] *Id.* at 5.

[7] *Id.*

[8] Applicant explains that the determination of the states in which it is legally obligated to register as an investment adviser is based upon: (i) applicant's information about its current clients, and (ii) a review of generally available standard compilations of state securities laws and regulations commonly used for purposes of determining investment adviser registration.

national investment advisers do not satisfy the assets under management requirement.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16218 Filed 6–19–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1638/803–108]

Ernst & Young Investment Advisers LLP; Notice of Application

June 16, 1997.

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

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

APPLICANT: Ernst & Young Investment Advisers LLP (''EYIA'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 203A(c) from section 203A(a).

SUMMARY OF APPLICATION: Applicant requests an order to permit it to continue to be registered with the SEC as an investment adviser.

FILING DATES: The application was filed on February 20, 1997, and amended on June 11, 1997.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 7, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of 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 5th Street, NW., Washington, DC 20549. Applicant, 787 Seventh Avenue, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Jennifer S. Choi, Special Counsel, at 942–0725 (Division of Investment Management, Task Force on Investment Adviser Regulation).

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

Applicant's Representations

1. Applicant is a limited liability partnership formed under Delaware law and owned by Ernst & Young LLP (''Ernst & Young'') and Ernst & Young U.S. LLP. Since April 7, 1995, applicant has been registered as an investment adviser with the SEC.

2. Applicant is responsible for the investment advisory services provided by persons in the Personal Financial Counseling practice at Ernst & Young, which is a functional specialty within Ernst & Young's Tax Department.

3. Under applicant's supervision, Ernst & Young provides fee-only personal financial and investment counseling services. Clients of this practice area include (1) large employee groups, (2) affluent individuals, (3) business executives (primarily through company-sponsored programs), (4) closely-held business owners, (5) family offices, (6) private and public foundations, (7) educational and other not-for-profit endowments, (8) corporations, and (9) employer-sponsored welfare and retirement plans. As to certain of these clients, Ernst & Young personnel monitor the activities and performance of other investment advisers selected by the client. Ernst & Young does not have discretionary trading authority for any of its advisory clients.

4. Ernst & Young has 90 offices, which are located in 38 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

5. Applicant has determined that it is required under applicable state laws to register as an investment adviser in 36 states (which include Puerto Rico).

Applicant's Legal Analysis

1. In October 1996, Congress passed the National Securities Markets Improvement Act of 1996 (''1996 Act''). Title III of the 1996 Act, the Investment Advisers Supervision Coordination Act (''Coordination Act''), reallocates regulatory responsibilities for investment advisers between the SEC and the regulatory authorities of the several states. The Coordination Act added section 203A to the Advisers Act, which provides that the only advisers that may register with the SEC are those with assets under management of not less than $25,000,000 or such higher amount as the SEC may, by rule, deem appropriate in accordance with the purposes of the Coordination Act. Section 203A(a)(2) defines ''assets under management'' as the ''securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services.'' Advisers that do not meet the $25 million threshold are prohibited from registering with the SEC; those advisers must register with the states in which they do business.

2. Instruction 8(c) to Form ADV–T provides that accounts over which an adviser has discretionary authority and for which it provides ongoing supervisory or management services are considered to be the subject to continuous and regular supervisory or management services within the meaning of section 203A(a)(2). Applicant states that it does not meet this test because Ernst & Young does not have discretionary authority over any of its clients' securities portfolios. Instruction 8(c) also provides that certain non-discretionary advisory arrangements may meet the section 203A(a)(2) test, but only if the adviser has an ongoing responsibility to select or make recommendations, based upon the needs of the client, as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the client, is responsible for arranging or effecting the purchase or sale. Applicant states that for certain of its clients' portfolios, Ernst & Young does, on a daily basis, reconcile and analyze securities trades made in clients' accounts to ensure that trades are being executed properly. Applicant believes that this is primarily a monitoring function; no investment recommendations are made with respect to the portfolios except on a quarterly or less-frequent basis. Accordingly, applicant concludes that Ernst & Young's services would not satisfy the $25 million of assets under management test.

3. Section 203A(c) provides that the SEC, by rule or regulation upon its own motion, or by order upon application, may permit the registration with the SEC of any person or class of persons to which the application of subsection (a) would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A.

4. Applicant states that Congress recognized that the definition of ''assets under management'' in the Coordination Act requires that there be ''continuous and regular supervisory or management services, a standard which may, in some cases, exclude firms with a national or multi-state practice from being able to register with the SEC.'' [1] Applicant further states that Congress intended the SEC to use its exemptive authority to

[1] S. Rep. No. 293, 104th Cong., 2d Sess. 4 (1996).