

5. At the time of the application, applicant had no outstanding shareholders, assets, debts, or liabilities. Applicant is not a party to any litigation or administrative proceeding.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant filed articles of dissolution with the Wisconsin Secretary of State on August 14, 1996, to terminate its corporate existence.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-27998 Filed 10-31-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22297; 812-10276]

The Gannett Welsh & Kotler Funds, et al.; Notice of Application

October 25, 1996.

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

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

APPLICANTS: The Gannett Welsh & Kotler Funds (the "Trust"), GW&K Equity Fund, L.P. (the "Partnership"), Gannett Welsh & Kotler, Inc. (the "Adviser"), and GSD, Inc. (the "General Partner").

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 exchange of shares of a series of the Trust for portfolio securities of an affiliated Partnership. Thereafter, the Partnership will dissolve and distribute the shares it received in the exchange *pro rata* to its partners.

FILING DATE: The application was filed on July 26, 1996 and amended on October 21, 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 November 19, 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 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, 222 Berkeley Street, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942-0574, or Mercer E. Bullard, 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 at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a Massachusetts business trust that has filed to be registered under the Act as an open-end management investment company. The registration statement has not yet been declared effective, and no offering of shares has commenced. The Trust initially will offer two series of shares, the GW&K Equity Fund (the "Equity Fund") and the GW&K Government Securities Fund. The investment objective of the Equity Fund is long-term total return from a combination of capital growth and growth of income. Shares of the Equity Fund will not be subject to front-end or contingent deferred sales loads or redemption fees. The Trust has adopted a distribution expense plan pursuant to rule 12b-1 of the Act. Applicants anticipate that shares of the Equity Fund will be marketed in much the same manner as the interests in the Partnership have been marketed to date.

2. The Partnership was organized in 1991 as a limited partnership under Delaware law. The Partnership has not been registered under the Act in reliance upon section 3(c)(1) of the Act, and the Partnership interests have not been registered under the Securities Act in reliance upon section 4(a) of the Securities Act. The Partnership's investment objective is to realize long-term total return from a combination of capital growth and growth of income, by investing in a diversified portfolio of equity securities. The General Partner is the sole general partner of the Partnership and a wholly owned subsidiary of the Adviser. All of the principals of the General Partner are principals of the Adviser. As of June 30, 1996, the General Partner had capital invested in the Partnership representing .5% of the net assets of the Partnership. The General Partner received its interest

in the Partnership in exchange for cash. The Adviser is the investment adviser of the Partnership and the Trust and is registered as an Investment Adviser under the Investment Advisers Act of 1940.

3. Applicants propose that the Equity Fund will exchange substantially all of the properties and assets of the Partnership prior to offering the shares to the public. Thereafter, the Partnership will dissolve and distribute the shares it received to its partners *pro rata*, including the General Partner, along with cash received from the sale of portfolio securities, if any, of the Partnership not acquired by the Equity Fund. The Partnership will retain assets sufficient, in the judgment of the Partnership, to pay the Partnership's debts, obligations and liabilities. Immediately following the exchange transaction (the "Exchange"), partners of the Partnership will constitute all of the holders of shares of the Equity Fund, except for shares representing seed capital contributed to the Equity Fund by the Adviser or one of its affiliates pursuant to section 14(a) of the Act.

4. The proposed Exchange will be effectuated pursuant to an agreement and plan of exchange (the "Plan") to be approved by the limited partners of the Partnership. Solicitation of the limited partners for approval of the Plan will be made by means of a prospectus/information statement. Securities of the Partnership will be acquired and valued by the Equity Fund at the time of acquisition in accordance with the pricing mechanism adopted by the Board of Trustees of the Trust and set forth in the N-1A Registration Statement, which is equivalent to the independent "current market price" of the securities as defined in rule 17a-7 under the Act. The Equity Fund will not acquire securities from the Partnership if, in the opinion of the Adviser, the acquisition would result in a violation of the Equity Fund's investment objectives, policies, or restrictions. The Equity Fund will have the authority to pay proceeds of a redemption of shares of a former partner of the Partnership in-kind, rather than in cash, in order to avoid the incurrence of excessive brokerage costs by the Equity Fund after the Exchange. No affiliated person of the Trust, the Adviser or the General Partner, or affiliated persons of any such person, will receive the proceeds of redemptions in-kind.

5. The General Partner has considered the desirability of the Exchange from the point of view of the Partnership and has concluded that (a) the Exchange is in the best interests of the Partnership and the limited partners and (b) the

Exchange will not dilute the financial interests of the partners when their Partnership interests are converted to shares of the Equity Fund.

6. The Plan will not be submitted to the limited partners of the Partnership unless a majority of the board of trustees of the Trust, including a majority of the non-interested members, conclude that (a) the Exchange is in the best interest of the Equity Fund, the Partnership, and the limited partners of the Partnership; (b) the Exchange will not dilute the financial interests of the Equity Fund's sole shareholder or of the partners of the Partnership when their interests are converted to shares of the Equity Fund, and (c) the terms of the Exchange as reflected in the Plan have been designed to meet the criteria contained in section 17(b) of the Act, i.e., that the Exchange be reasonable and fair, not involve overreaching and be consistent with the policies of the Equity Fund. The trustees will consider each aspect of the Exchange, including (i) the method of valuing the portfolio securities to be acquired from the Partnership, (ii) the net asset value of the shares to be delivered to the Partnership, (iii) the procedure for selecting among the portfolio securities of the Partnership, (iv) the possibility of the Equity Fund's incurring excessive brokerage costs as a result of redemptions of shares by former partners of the Partnership, (v) the allocation of the costs of the Exchange, (vi) the possibility of adverse tax consequences to future shareholders of the Equity Fund resulting from the carrying forward of unrealized capital gains from the Partnership to the Equity Fund, and (vii) the benefits from the Exchange accruing to the General Partner and the Adviser.

7. The Exchange will not be effected unless: (a) the registration statements of the Equity Fund have been declared effective, (b) the limited partners of the Partnership have approved the Plan, (c) the requested order has been granted, and (d) the Trust has received an opinion of counsel that (i) the distribution of shares from the Partnership to its limited partners, which will be in liquidation of the Partnership, will not cause taxable gain or loss to be recognized by the limited partners, (ii) the basis to the limited partners for the shares will be equal to the adjusted basis of the limited partners' interests in the Partnership, and (iii) the limited partners' holding periods with respect to the shares will include the Partnership's holding periods with respect to the shares.

8. The Exchange has been proposed primarily for two reasons. First, the Exchange will permit limited partners of

the Partnership to pursue as shareholders of the Equity Fund substantially the same investment objective and policies in a larger fund. Second, the Equity Fund will be simpler to operate because complicated allocation calculations that the Partnership must make would not apply to the Equity Fund, and operating as a registered investment company would eliminate other administrative burdens and filing requirements currently faced by the Partnership.

9. The General Partner will assume all costs of the Exchange, including the cost of transferring the Partnership's portfolio securities to the account of the Equity Fund and the cost of issuing shares of the Equity Fund in the Exchange, as well as the legal fees and expenses relating to the application for exemptive relief and obtaining an opinion of counsel on certain tax matters. No brokerage commission, fee, or other remuneration will be paid in connection with the Exchange.

10. After the Exchange is accomplished, the former portfolio manager of the Partnership and then-current manager of the Equity Fund intends for the foreseeable future to manage the assets of the Equity Fund in substantially the same manner as he had previously managed the Partnership, except as may be necessary or desirable (a) in order to qualify as a regulated investment company under the Internal Revenue Code of 1986, (b) in order to comply with investment restrictions adopted by the Equity Fund in accordance with the requirements of the Act or securities laws of states where the Fund's shares will be offered, or (c) in light of changed market conditions.

Applicants' Legal Conclusions

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company from selling to or purchasing from such investment company any security. Applicants state that the Partnership may be considered an affiliated person of the Trust because the Partnership and the Trust may be deemed under the control of the Adviser, because of its being the investment adviser of both the Partnership and the Trust. Thus, unless the requested relief is granted, the proposed Exchange may be prohibited under section 17(a) of the Act if the Exchange is viewed as a principal transaction between the Trust and the Partnership.

2. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that 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, the transaction is consistent with the policies of the registered investment company, and the transaction is consistent with the general purposes of the Act.

3. Applicants believe that the proposed transaction satisfies the criteria of section 17(b). Applicants contend the terms of the Exchange are reasonable and fair because the Equity Fund and the Partnership have similar investment objectives and policies, and the Equity Fund will attempt to provide investors with portfolio securities substantially similar to that held by the Partnership. Applicants also note that the Equity Fund will acquire the Partnership securities at their independent "current market price," as defined in rule 17a-7. Applicants believe that this price will be as advantageous to the Equity Fund as open-market purchases. In addition, by acquiring suitable securities from the Partnership, applicants argue that the Equity Fund will avoid incurring brokerage and other transaction costs. Applicants further note that the terms of the Exchange will result in no gain or loss being recognized by partners of the Partnership. Finally, applicants note that shares of the Equity Fund will be issued at net asset value.

4. Applicants believe the Exchange is consistent with the policies of the Equity Fund because the Equity Fund will acquire securities that the Adviser has previously purchased on the basis of substantially similar objectives and policies. After the Exchange, limited partners will hold substantially the same assets as the Equity Fund's shareholders as they had previously held as limited partners of the Partnership. In this sense, the Exchange can be viewed as a change in the form in which assets are held, rather than as a disposition giving rise to section 17(a) concerns. Finally, applicants believe the proposed Exchange does not give rise to the abuses that section 17(a) was designed to prevent and is consistent with the policies underlying the adoption of rule 17(a)-7.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-28004 Filed; 10-31-96; 8:45 am]

BILLING CODE 8010-01-M