

1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Board of Directors (the "Committee") unanimously approved a resolution on February 27, 1997 to withdraw the Company's Security from listing on the Amex and, instead, to list such Security on the National Association of Securities Dealers Automated Quotation National Market System ("Nasdaq/NMS"). The Company's Security began trading on Nasdaq/NMS on June 10, 1997. In making the decision to withdraw the Security from listing on the Amex, the Company has informed the Commission that it has considered the direct and indirect costs and expenses associated with maintaining dual listings. The Company does not see any particular advantage in the dual trading of its Security.

The Company has complied with the Rules of the Amex by notifying the Amex of its intention to withdraw its Common Stock from listing on the Exchange by letter dated May 27, 1997. The Amex has informed the Company, by letter dated June 3, 1997, that it has no objection to the withdrawal of the Security from listing on the Amex.

Any interested person may, on or before July 22, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 97-17538 Filed 7-3-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-22729; 812-10486]

Nations Fund Trust, et al.; Notice of Application

June 27, 1997.

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

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

Applicants: Nations Fund Trust ("NFT"), Nations Fund, Inc. ("NFI"), Nations Fund Portfolios, Inc. ("NFPI"), Nations Institutional Reserves ("NIR"—formerly, The Capitol Mutual Funds), each open-end management investment company or series thereunder, that currently is, or in the future becomes, part of the same "group of investment companies," as defined in rule 11a-3 under the Act, any other registered investment companies or series thereof that are now or in the future advised by NationsBanc Advisors, Inc. ("NBAI") (collectively, "Nations Fund Family"), and NBAI.

Relevant Act Sections: Order requested under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B), under sections 6(c) and 17(b) for an exemption from section 17(a), and under section 17(d) and rule 17d-1 thereunder permitting certain joint transactions.

Summary of Application: Applicants request an order that would permit certain investment companies to purchase shares of affiliated money market funds in excess of the limits prescribed in section 12(d)(1).

Filing Dates: The application was filed on January 10, 1997, and amended on April 15, 1997, and June 26, 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 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 July 22, 1997 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, One NationsBank Plaza, 101

South Tryon Street, Charlotte, North Carolina 28255.

FOR FURTHER INFORMATION CONTACT:

Joseph B. McDonald, Jr., Senior Counsel, at (202) 942-0533, or Christine Y. Greenlees, 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. NFT and NIR are Massachusetts business trusts registered under the Act as open-end management investment companies. NFI and NFPI are Maryland corporations registered under the Act as open-end management investment companies. The Nations Fund Family presently consists of 50 distinct investment portfolios.

2. NFT currently consists of 35 separate series or investment portfolios, two of which hold themselves out as money market funds that seek to maintain a constant net asset value ("NAV"), and are subject to the requirements of rule 2a-7 under the Act, and 33 of which have per share NAVs that fluctuate from day to day. NFI currently consists of eight separate series or investment portfolios, two of which hold themselves out as money market funds and six of which have fluctuating per share NAVs. NFPI currently consists of three separate series or investment portfolios, all of which have fluctuating per share NAVs. NIR currently consists of four separate series or investment portfolios, all of which hold themselves out as money market funds. Additional series of NFT, NFI, NFPI, and NIR may be added in the future.

3. Each existing and any future money market portfolio of NFT, NFI, NFPI, NIR and any other investment companies advised now or in the future by NBAI are referred to herein individually as a "Money Market Fund" and collectively as the "Money Market Funds." Each existing and any future variable NAV portfolio of NFT, NFI, NFPI, and any other investment companies advised now or in the future by NBAI are referred to herein individually as a "Non-Money Market Fund" and collectively as the "Non-Money Market Funds." The Money Market Funds and the Non-Money Market Funds are

referred to herein collectively as the "Funds."¹

4. NBAI is the investment adviser for each series of the Nations Fund Family. NBAI is a wholly-owned subsidiary of NationsBank, N.A. ("NationsBank"), which in turn is a wholly-owned indirect subsidiary of NationsBank Corporation ("NBC"), a publicly held bank holding company. TradeStreet Investment Associates, Inc. ("TSIA"), also a wholly-owned subsidiary of NationsBank, serves as the investment sub-adviser for all but one of the series of NFT, NFI, and NIR. Gartmore Global Partners ("GGP"), a joint venture owned equally by a wholly-owned subsidiary of NationsBank and an indirect wholly-owned subsidiary of Gartmore Investment Management plc, a company organized under the laws of the United Kingdom, serves as the investment subadviser to each series of NFPI and one series of NFI. NBAI, TSIA, GGP, and any future investment sub-adviser to any Fund are referred to herein collectively as the "Investment Advisers."

5. NationsBank of Texas, N.A. ("NBT"), a wholly-owned indirect subsidiary of NBC, serves as custodian for the assets of all but four series of the Nations Fund Family. The Bank of New York ("BONY"), which is not affiliated with NationsBank or its affiliates, serves as the sub-custodian for the assets of all but four series of the Nations Fund Family, and serves as the direct custodian for the assets of those four series. NBT and BONY, in their respective capacities as custodian and sub-custodian, are referred to herein collectively as the "Custodian." Stephens Inc., a registered broker-dealer that is not affiliated with NationsBank or its affiliates, serves as the Funds' sponsor, distributor, and administrator. First Data Investor Services Group, Inc., which is not affiliated with NationsBank or its affiliates, serves as the co-administrator and the transfer agent for the Funds.

6. The Non-Money Market Funds invest in a variety of debt and/or equity securities in accordance with their respective investment objectives and policies. The Money Market Funds seek current income, liquidity, and capital preservation by investing exclusively in short-term money market instruments such as U.S. Government securities, bank obligations, commercial paper, municipal obligations, or repurchase agreements. Each of the Funds has, or may be expected to have, Cash Balances

(as defined below) in an account at the Custodian, which either may be invested directly in individual short-term money market instruments, or may not otherwise be invested in any portfolio securities.

7. Certain of the Funds may participate in a securities lending program (the "Securities Lending Program"), under which they may lend portfolio securities to registered broker-dealers or other institutional investors deemed by the respective Fund's Investment Adviser to be of good standing ("Borrowers"). These loans may not exceed one-third of a Fund's total assets taken at market value (or such other percentage as may be permissible in the future under applicable rules or SEC staff positions). The Funds have selected BONY, which is not affiliated with NationsBank or its affiliates, as their securities lending agent. The agreements governing such loans require that the loans be continuously secured by collateral equal at all times in value to at least the market value of the securities loaned. Collateral for such loans may include cash, shares of money market mutual funds, U.S. Government or agency securities, repurchase agreements, or an irrevocable letter of credit issued by a bank meeting certain qualifications. Any investment of cash collateral will comply with all present and future applicable SEC staff positions regarding securities lending arrangements.

8. Applicants request an order that would permit: (a) each of the Funds to utilize its cash reserves that have not been invested in portfolio securities ("Uninvested Cash") to purchase shares of one or more of the Money Market Funds (such Funds, including Money Market Funds, that purchase shares of the Money Market Funds are referred to herein collectively as the "Investing Funds"); (b) each of the Investing Funds to utilize cash collateral received from Borrowers in connection with the Investing Fund's securities lending activities ("Cash Collateral") to purchase shares of one or more of the Money Market Funds; and (c) the Money Market Funds to sell their shares to, and to purchase (or redeem) such shares from, the Investing Funds. Uninvested Cash and Cash Collateral are referred to herein collectively as "Cash Balances." By investing Cash Balances in the Money Market Funds as proposed, applicants believe that the Investing Funds will be able to reduce their transaction costs, create more liquidity, enjoy greater returns, and further diversify their holdings.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt any person, security or transaction (or classes thereof) from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors.

3. Applicants' proposal would permit the Investing Funds to use Cash Balances to acquire shares of a Money Market Fund in excess of the percentage limitations set out in section 12(d)(1)(A), provided, however, that each Investing Fund's aggregate investment of Uninvested Cash in shares of such Money Market Fund shall not exceed 25% of the Investing Fund's total assets. Applicants' proposal also would permit the Money Market Funds to sell their securities to an Investing Fund in excess of the percentage limitations set out in section 12(d)(1)(B). Applicants represent that no Money Market Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

4. The restrictions in section 12(d)(1) were intended to prevent certain abuses perceived to be associated with the pyramiding of investment companies, including: (a) undue influence by the fund holding company over its underlying funds; (b) the threat of large scale redemptions of the securities of the underlying investment companies; (c) unnecessary duplication of costs, e.g., sales loads, advisory fees, and administrative costs; and (d) unnecessary complexity. For the following reasons, applicants believe that the proposed arrangement does not entail the type of abuse that Congress adopted section 12(d) to prevent.

¹ All investment companies advised by NBAI that currently intend to rely on the requested order are named as applicants.

5. Applicants represent that the proposed arrangement would not result in the inappropriate layering of either sales charges or investment advisory fees.² Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee, or service fee. In connection with approving any advisory contract, the Investing Fund's board of trustees, including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, will consider to what extent the advisory fees charged to the Investing Fund by the Investment adviser should be reduced to account for the reduced services provided to the Fund as a result of Uninvested Cash being invested in the Money Market Fund.

6. Section 17 (a)(1) and (2) make it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from such investment company. Because NFT, NFI, NFPI, and NIR have common boards of trustees, each series of NFT, NFI, NFPI and NIR may be deemed to be under common control with each of the other. In light of their common boards of trustees, each series of NFT, NFI, NFPI, and NIR might be deemed to be an "affiliated person," as defined in section 2(a)(3) of the Act, of each of the other series. Accordingly, the sale of shares of the Money Market Funds to the Investing Funds, and the redemption of such shares by the Investing Funds, would be prohibited under section 17(a).

7. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if the 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.

8. Section 17(b) authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed 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 proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit each of the Investing Funds to purchase and redeem shares of the Money Market Funds, and the Money Market Funds to sell their shares to, and to redeem such shares from, each of the Funds.³

9. The Investing Funds will retain their ability to invest Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies, if they believe they can obtain a higher return, or for any other reason. Each of the Money Market Funds has the right to discontinue selling shares to any of the Investing Funds if its board of trustees determines that such sales would adversely affect its portfolio management and operations. Therefore, applicants believe that the proposal satisfies the standards for relief in sections 6(c) and 17(b).

10. Section 17(d) and rule 17d-1 prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Each Investing Fund, by purchasing shares of the Money Market Funds, each Investment Adviser of an Investing Fund, by managing the assets of the Investing Funds invested in the Money Market Funds, and each Money Market Fund, by selling shares to the Investing Funds, could be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) and rule 17d-1.

11. In passing upon applications submitted pursuant to section 17(d) and rule 17d-1, the SEC will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit-sharing plan on the basis proposed 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 believe that the proposal satisfies these standards.

³ Section 17(b) applies to a specific proposed transaction rather than an ongoing series of future transactions. See *Keystone Custodian Funds*, 21 S.E.C. 295, 298-99 (1945). Section 6(c), along with section 17(b), frequently are used to grant relief from section 17(a) to permit an ongoing series of future transactions.

Applicants' Conditions

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

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules).

2. Before the next meeting of the board of trustees of an Investing Fund is held for the purpose of voting on an advisory contract under section 15 of the Act, the Investment Adviser to the Investing Fund will provide the board of trustees with specific information regarding the approximate cost to the Investment Adviser of, or portion of the advisory fee under the existing advisory fee attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Fund. In connection with approving any advisory contract for an Investing Fund, the board of trustees of the Investing Fund, including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by the Investment Adviser should be reduced to account for reduced services provided to the Fund by the Investment Adviser as a result of Uninvested Cash being invested in the Money Market Fund. The minute books of the Investing Fund will record fully the Board's consideration in approving the advisory contract, including the considerations referred to above.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment in the Money Market Funds does not exceed 25 percent of the Investing Fund's total assets.

4. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectuses and statements of additional information.

5. Each Investing Fund, each Money Market Fund, and any future fund that may rely on the order shall be advised by the Investment Adviser, or a person controlling, controlled by, or under common control with the Investment Adviser.

² Applicants do not believe that the custodian fees paid to NBT as Custodian or administrative or transfer agency fees which may be paid to other affiliates of NBT will result in a significant layering of fees. The services for which such fees are paid must be performed separately at both the Investing Fund and the Money Market Fund levels in all events, and significant economies in the cost of performing these functions are not expected to be realized as a result of investments by Investing economies in the cost of performing these functions are not expected to be realized as a result of investments by Investing Funds in the Money Market Funds.

6. No Money Market Fund shall acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in the Securities Lending Program, a majority of the trustees (including a majority of the independent trustees) of the Fund will approve the Fund's participation in the Securities Lending Program. Such trustees also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of the Fund.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-17577 Filed 7-3-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26735]

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

June 27, 1997.

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 application(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 July 21, 1997, 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.

Consolidated Natural Gas Company, et al. (70-8577) (70-8577)

Consolidated Natural Gas Company ("CNG"), a registered holding company located at CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222-3199, and its wholly-owned nonutility subsidiary companies, CNG Energy Services Corporation ("Energy Services") and CNG Products and Services, Inc., ("Products and Services"),¹ located respectively at One Park Ridge Center, Pittsburgh, Pennsylvania 15244-0746 and CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222-3199 (collectively "Applicants"), have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 43, 45 and 54 thereunder seeking a supplemental order pertaining to the provision of certain energy-related services and related loan financing. A notice of the filing of the initial application-declaration was issued by the Commission on July 21, 1995 (Holding Co. Act Release No. 26337) and an initial order was issued on August 28, 1995 (Holding Co. Act Release No. 26363).

The initial order authorized Products and Services to provide customers with ten categories of energy-related services (collectively, "Original Customer Services").² It also authorized CNG to

¹ CNG incorporated CNG Special Products and Services, Inc., in 1995, as a wholly-owned non-utility subsidiary of its CNG Energy Services Corporation subsidiary. The name was changed in late 1995 to CNG Products and Services, Inc. Products and Services provides energy-related, customer-convenience type services to customers of the local distribution companies in the CNG System and to others, primarily customers of non-affiliated utilities. The "CNG System" consists of CNG and its wholly-owned utility and non-utility subsidiaries.

² The specific customer services approved by the initial order were as follows: (1) "Service Line Maintenance Program" (repair of service lines owned by and located on customers' property, in exchange for a nominal monthly fee); (2) "Appliance Guard" (an extended service warranty covering the cost of repairing customers' appliances); (3) "Payment Power" (bill payment protection, up to \$400 a month for six months); (4) "Routine Furnace Services" (routine furnace inspection and repair); (5) "One-Package Appliance Inspection and Replacement" (annual inspection, maintenance or replacement of any appliance, including hot water heaters); (6) "Community Bill Payment Center" (a centralized bill payment center for "one stop" payment of all utility and municipal bills); (7) "Energy Audits and Services" (energy audits for institutional customers together with a turn-key service package); (8) "Propane Services" (in areas where it is not economical for local

provide Products and Services with up to \$10 million in related revolving loan financing through December 31, 2000. Applicants now seek a supplemental order authorizing additional categories of energy-related services and allowing Products and Services to provide financing to customers³ in connection with the sale and installation of certain energy-related equipment (collectively, "New Customer Services").

The proposed New Customer Services would consist of the following: (1) *Energy-Related Equipment*—Products and Services would sell and install (a) energy-related appliances such as furnaces, air conditioners, hot water heaters, heat pumps, gas grills, gas lights, gas logs and related fireplace equipment, natural gas vehicle ("NGV") conversion equipment (to convert a non-gas powered vehicle to "dual-fuel" capability) and the NGV refueling equipment necessary to allow customers to refuel their NGVs at home, and other similar appliances, and (b) energy-related products that enhance safety, increase energy efficiency, or provide energy-related information, such as home security systems (including carbon monoxide, smoke and fire detectors, and fire extinguishers), energy consumption monitoring devices (including software programs), demand side management devices to increase energy efficiency or reduce energy consumption, and other similar products. (2) *Energy-Related Safety Inspection and Repair Services*—Products and Services would offer residential and commercial customers a safety inspection and repair service to detect and correct problems such as carbon monoxide leaks, and faulty equipment wiring. (3) *Energy-Related Electronic Measurement Services*—Products and Services would offer

distribution companies to extend natural gas service via underground pipelines); (9) "Gas Fired Electric Generators" (installation of temporary or permanent gas-fired turbines for on-site generation and consumption of electricity); and (10) "Pipeline Maintenance, Construction and Managerial Support Services for Others" (management, construction and required maintenance for pipelines owned by non-affiliated utilities and provision of consulting services to small non-affiliated utilities).

³ As in the initial order, the term "customers" refers to both customers of CNG's local distribution companies ("LDCs") and others, primarily customers of utilities not affiliated with CNG. CNG has five wholly-owned LDCs: (1) The East Ohio Gas Company, serving approximately 1,081,000 customers primarily in northeastern Ohio; (2) The People's Natural Gas Company, serving approximately 332,000 customers in southwestern Pennsylvania; (3) Virginia Natural Gas, Inc., serving approximately 184,000 customers in southeastern Virginia; (4) Hope Gas, Inc., serving approximately 111,000 customers in central and northern West Virginia; and (5) West Ohio Gas Company, serving approximately 60,000 customers in a region in western Ohio centered around Lima.