4. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, 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. Applicants believe that the requested relief meets this standard.

5. Applicants note that the timing of the Merger is influenced by a number of factors relating principally to the merging companies' commercial banking and other similar business concerns, as well as pending regulatory approvals and satisfaction of other closing conditions. Applicants state that these circumstances make it difficult, from a timing perspective, to secure prior approval of the New Advisory Agreements by the Funds' shareholders. Applicants state that, in addition, because it is likely that one or more of the Funds will be merged into corresponding funds of the Nations Funds family of funds in 1998, the granting of the requested order will allow the Funds to undertake a single proxy solicitation for obtaining shareholder approval of the plan of reorganization and the New Advisory Agreements, rather than conducting more than one proxy solicitation within a relatively short time frame, and should thus serve to reduce costs and minimize any potential shareholder confusion.

6. Applicants submit that they will take all appropriate actions to prevent any diminution in the scope of quality of services provided to the Funds during the Interim Period. Applicants state that the Existing Advisory Agreements were approved by the Board and the shareholders of the Funds. Applicants represent that the New Advisory Agreements will have the same terms and conditions as the Existing Advisory Agreements, except for the dates of commencement and termination and the inclusion of escrow arrangements. Accordingly, applicants assert that each Fund will receive, during the Interim Period, substantially identical investment advisory services, provided in the same manner, as it received prior to the Merger. Applicants state that, in the event there is any material change in the Adviser's personnel providing advisory services under the New Advisory Agreements during the Interim Period, the Adviser will apprise and consult the Board to ensure that the Board, including a majority of the Indepenednet Trustees, are satisfied that the services provided by the Adviser will not be diminished in scope or quality.

7. Applicants contend that to deprive the Adviser and Sub-Advisers of their customary fees during the Interim Period for no reason, other than the fact that the Merger may be deemed to result in an assignment of the Existing Advisory Agreements, would be an unduly harsh and unreasonable penalty to impose upon an investment adviser in the circumstances of the application. Applicants submit that, in good faith and consistent with the Act and the spirit of rule 15a-4, they seek to promote the interests of the Funds and their shareholders by undertaking the fee and other arrangements described in the application. Applicants emphasize that the fees payable to the Adviser and Sub-Advisers under the New Advisory Agreements have been approved by the Board, including a majority of the Independent Trustees, and that these fees will not be released by the escrow agent without the approval of the respective Fund's shareholders.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. Each New Advisory Agreement will have the same terms and conditions as the respective Existing Advisory Agreement, except for the effective and termination dates and the inclusion of escrow arrangements.

2. Fees earned by the Adviser and paid by a Fund during the Interim Period in accordance with a New Advisory Agreement will be maintained in an interest-bearing escrow account, and amounts in such account (including interest earned on such amounts) will be paid to the Adviser only upon approval of the New Advisory Agreement by the shareholders of the related Fund or, in the absence of approval by such shareholders, to the Fund.

3. The Trust will hold meetings of shareholders to vote on approval of the New Advisory Agreements on or before the 120th day following the termination of the Existing Advisory Agreements (but in no event later than May 30, 1998).

4. The Adviser will pay the costs of preparing and filing the application. The Adviser will pay the costs relating to the solicitation of approval of Fund shareholders, to the extent such costs relate to shareholder approval of the New Advisory Agreements necessitated by the Merger.

5. The Adviser will take all Appropriate actions to ensure that the scope and quality of advisory and other services provided to the Funds under the New Advisory Agreements will be at least equivalent, in the judgment of the Board, including a majority of the Independent Trustees, to the scope and quality of services provided under the Existing Advisory Agreements. In the event of any material change in personnel providing services pursuant to the New Advisory Agreements, the Adviser will apprise and consult the Board to assure that the Board and a majority of the Independent Trustees are satisfied that the services provided by the Adviser will not be diminished in scope or quality.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–32754 Filed 12–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22933; 812–10670]

Financial Institutions Series Trust, et al.; Notice of Application

December 10, 1997.

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

ACTION: Notice of application for order under section 11(a) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicants request an order permitting certain offers of exchange of shares (the ''Exchange Program'') between Summit Cash Reserves Fund Portfolio (''MMF''), a money market fund sponsored by Merrill Lynch, Pierce, Fenner & Smith Incorporated (''Merrill Lynch'') and certain non-money market funds in other groups of investment companies (the ''Participating Funds'') on a basis other than their respective net asset values per share.

APPLICANTS: Financial Institutions Series Trust; Fund Asset Management, L.P. (''FAM''); Merrill Lynch Asset Management, L.P. (''MLAM''); Merrill Lynch Funds Distributor, Inc. (''MLFD''); and Merrill Lynch.

FILING DATES: The application was filed on May 15, 1997. Counsel for applicants has agreed to file an amendment to the application during the notice period, the substance of which is incorporated herein.

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 state the nature of the writer's interest, the reason for the request and the issues contested. All requests must be received by the SEC by 5:30 p.m. on January 2, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certicate of service. Persons who wish to be notified of the date 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, c/o Merrill Lynch Asset Management, L.P. Attn: Robert Harris, Esq., 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Senior Counsel, at (202) 942–0568 (Division of Investment Management, Office of Disclosure and Review), or Mercer E. Bullard, Special Counsel, at (202) 942–0659 (Division of Investment Management, Office of Chief Counsel).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee by writing the SEC's Public Reference Branch at 450 Fifth Street, N.W., Washington, D.C., or by telephone at (202) 942–8090.

Applicants' Representations

1. MMF, a money market fund, is a series of Financial Institutions Series Trust, an open-end management investment company registered under the Act. FAM and MLAM are wholly-owned by Merrill Lynch & Co. (''ML&Co.'') and are registered as investment advisers under the Investment Advisers Act of 1940. FAM serves as MMF's investment adviser.[1] MLFD, a broker-dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act'') and a member of the National Association of Securities Dealers, Inc. (the ''NASD''), serves as MMF's distributor. Merrill Lynch, a wholly-owned subsidiary of ML&Co., is a broker-dealer registered under the 1934 Act and a member of the NASD.

2. The Participating Funds will be non-money market open-end management investment companies registered under the Act (a) that are or will be sold to customers of Merrill Lynch under agreements whereby Merrill Lynch serves as a selected dealer or agent; (b) whose investment adviser is other than FAM or MLAM; (c) whose principal underwriter is other than MLFD; and (d) that have agreed to participate in the Exchange Program. Shares of Participating Funds may be sold with a front-end sales load (''FESL''), subject to a contingent deferred sales charge (''CDSC'') or subject to alternative sales charge arrangements (*e.g.*, a level load). Each of the principal underwriters of the Participating Funds will be registered as a broker-dealer under the 1934 Act and a member of the NASD.

3. Customers of Merrill Lynch who have acquired shares of Participating Funds typically have such shares held in nominee name on the books of Merrill Lynch. Merrill Lynch provides consolidated account statements and year-end tax reports for its customers reflecting all positions held on the books of Merrill Lynch, including shares of Participating Funds. Merrill Lynch does not typically act as a selected dealer for money market funds other than those in the Merrill Lynch ''group of investment companies'' (including MMF), as that term is defined in rule 11a–3.[2] Accordingly, Merrill Lynch does not typically hold on its books shares of money market funds that currently have exchange privileges with the Participating Funds.

4. The Participating Funds generally offer exchange privileges that permit an investor to exchange shares of one Participating Fund for shares of another Participating Fund in the same group of investment companies without paying a CDSC on the redemption of the shares exchanged or a FESL on the shares purchased, depending on the sales loads charged by each Fund. Currently, a Merrill Lynch customer who is a shareholder of a Participating Fund may exchange into a money market fund with which the Participating Fund has an exchange privilege. In that event, because the customer's interest in that money market fund will not be carried on Merrill Lynch's books, Merrill Lynch is unable to provide a consolidated report of the customer's entire position. Alternatively, the customer could acquire a money market fund in the Merrill Lynch group of investment companies, the shares of which can be recorded on the books of Merrill Lynch. In that case, however, the customer would have to redeem shares of the Participating Fund and pay any applicable CDSC or, if Participating Fund shares subject to an FESL are redeemed, the customer may have to pay the FESL upon any subsequent repurchase of those shares.

5. The Exchange Program would enable Merrill Lynch customers who hold Participating Fund shares to maintain all of their holdings at Merrill Lynch, while also being able to avail themselves of the exchange privileges offered by the Participating Fund in which they have invested. These shareholders would be able to make exchanges into MMF, or exchanges back into shares of the same Participating Fund involved in the original exchange, without incurring a sales load. These shareholders also would be able to exchange their MMF shares at a reduced or no sales load into shares of certain other Participating Funds in the same group of investment companies as the Participating Fund involved in the original exchange.

6. Any exchange under the Exchange Program will be made in accordance with the exchange privileges offered by the Participating Fund group in which the Merrill Lynch customer has invested. Thus, shareholders of a Participating Fund who exchange their shares for shares of MMF may not exchange the MMF shares for shares of another fund that is not in the same group of investment companies as the Participating Fund. The Exchange Program also will not enable Participating Fund shareholders to exchange their shares directly for shares of another Participating Fund except in accordance with the exchange privileges offered by the particular Participating Fund group.

7. All shares involved in the Exchange Program will be held in Merrill Lynch's omnibus account on each Fund's books.[3] Merrill Lynch, as selected dealer for both MMF and the Participating Fund involved in the exchange, will process the sale and related purchase of shares at the price calculated in accordance with each Fund's prospectus. Merill Lynch will accept and record the payment of sales loads, administrative fees and redemption fees. In particular, upon receipt of a share exchange request, Merrill Lynch will process the share exchange on its mutual fund shareholder software system in accordance with the directions of the prospectuses for MMF and for the Participating Fund involved

[1] In the future, MMF may be a feeder fund to another money market fund in reliance on section 12(d)(1)(E) of the Act, in which case the only investment securities it would hold would be shares of the master fund. In that event, either FAM or MLAM will serve as the investment adviser of the fund in which MMF invests.

[2] Rule 11a–3 defines ''group of investment companies'' to mean two or more open-end investment companies that hold themselves out as being related and that have a common adviser or principal underwriter (or advisers and underwriters that are affiliated persons of one another within the meaning of section 2(a)(3) of the Act).

[3] Shares held in certificated form will not be eligible for the Exchange Program.

in the exchange. Merrill Lynch also will prepare and mail appropriate confirmations or statements related to the share exchange transactions.

8. The exchange arrangements for MMF and each Participating Fund will be described in general terms in MMF's prospectus, including the existence of any administrative or redemption fees charged (without necessarily identifying the specific Funds available for exchange). Each Participating Fund's prospectus will be required to disclose the amount of any administrative or redemption fees that will be imposed in connection with an exchange to or from MMF.

Applicants' Legal Analysis

1. Section 11(a) of the Act prohibits any offer by a registered open-end management investment company or its principal underwriter involving the exchange of the company's shares on any basis other than the relative net asset value of the securities to be exchanged, unless the terms of the offer have been approved in advance by the SEC or meet the requirements of any rules adopted to regulate exchange offers.

2. Rule 11a–3 allows an investment company or its principal underwriter to make exchange offers to its shareholders or to shareholders in another company in the same group of investment companies, and to charge a sales load, redemption fee, administrative fee or any combination thereof in connection with the exchange, subject to compliance with certain requirements. Among other requirements, paragraph (b)(6)(i) of the rule requires that the prospectus of the offering company disclose the amount of any administrative or redemption fee charged in connection with an exchange.

3. Applicants request an order under section 11(a) to permit the exchange of shares of MMF for shares of Participating Funds, and shares of Participating Funds for shares of MMF, at other than their respective net asset values at the time of exchange. Applicants state that these exchanges would include, for example, (i) exchanges of MMF shares for shares of a Participating Fund sold with an FESL or a CDSC (''CDSC Shares''), (ii) exchanges of CDSC Shares of a Participating Fund for MMF shares, and (iii) the imposition of an ''administrative'' and/or ''redemption'' fee (as defined in rule 11a–3) in connection with the exchanges.

4. Applicants state that each exchange will comply with all the requirements of rule 11a–3, except (a) the requirement that the Participating Funds and MMF be part of the same ''group of investment companies,'' as that term is defined in paragraph (a)(5) of the rule, and (b) the requirement of paragraph (b)(6)(i) that MMF's prospectus disclose the amount of any administrative or redemption fee imposed on an exchange transaction for its securities, provided that MMF's prospectus will disclose the existence of these fees.

5. Applicants submit that the Exchange Program would not create any opportunity for improper gain by the underwriters of the Participating Funds, by MLFD, or by Merrill Lynch, and would not raise the possibility of inducing exchanges for the purpose of exacting additional sales charges, the abuse against which section 11(a) was directed. Furthermore, if the exchanges were always made at relative net asset values, applicants believe that the distribution systems of the Participating Funds could be disrupted because an investor could easily avoid applicable FESLs by acquiring shares of MMF and immediately exchanging those shares for Participating Fund shares, or avoid applicable CDSCs by exchanging CDSC Shares for MMF shares and then redeeming such shares without payment of any otherwise applicable CDSC. Applicants contend that the Exchange Program would avoid these problems.

6. Applicants also contend that the Exchange Program would benefit exchanging shareholders by crediting them for FESLs already paid, or, in the case of CDSC Shares, for the time the MMF shares are held or for distribution fees paid with respect to MMF shares under rule 12b–1 under the Act, consistent with the requirements of rule 11a–3. Finally, applicants contend Merrill Lynch is logically positioned to implement the Exchange Program even though members of different ''groups of investment companies'' are involved because it is the single entity with the information needed to execute both the redemption and purchase orders involved in a share exchange.

7. Applicants believe there will be such a wide variety of potential exchange arrangements offered by different families of Participating Funds that it would be impractical for MMF's prospectus to state the amounts of administrative or redemption fees imposed on an exchange transaction. Applicants also submit that shareholders will be fully informed of the fees and charges applicable to any exchange, because each Participating Fund's prospectus will include the information required by rule 11a–3.

Finally, applicants note that MMF's prospectus will include general information about the Exchange Program and refer shareholders to their financial consultants for more detailed information.

Applicants' Conditions

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

1. Merrill Lynch will be responsible for tracking the payment of sales loads, administrative fees and redemption fees by shareholders of investment companies or portfolios covered by the application, and otherwise will conduct share exchanges in accordance with the applicants' representations.

2. Offers of exchange pursuant to the applicants' Exchange Program will be conducted in accordance with rule 11a–3 under the Act, except that:

(a) An offering company will not be limited to making an exchange offer only to the holder of a security of the offering company, or of another open-end investment company within the same group of investment companies as the offering company;

(b) MMF's prospectus will describe the existence (but not the amount) of any administrative or redemption fees imposed on an exchange pursuant to the Exchange Program.

3. Merrill Lynch will maintain and enforce internal control procedures that are designed to assure the Exchange Program's compliance with all applicable provisions of rule 11a–3 under the Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–32749 Filed 12–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22937; 811–5517]

Heartland Technology, Inc. (Formerly Milwaukee Land Company); Notice of Application

December 10, 1997.

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

ACTION: Notice of application for deregistration under section 8(f) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Dates: The application was filed on June 20, 1997, and amended on