presentations describing the current Department of Energy repository and waste package designs, the workshop will move to discussion by the participants to alternative design concepts that are compatible with the Department of Energy's current repository design for Yucca Mountain, or other repository designs that reasonably could be implemented there. The discussion also will include research and development that might be required to support each design concept.

Time will be set aside during the workshop for technical comments from the public that pertain to the discussion. Depending on the number of people wanting to make comments, time limits may have to be set. Written comments of any length may be submitted for the record. Those wanting to make comments will be asked to sign up at the registration table.

Transcripts of this meeting will be available on computer disk, via e-mail, or on a library-loan basis in paper format from Davonya Barnes, Board staff, beginning June 30, 1998. For further information, contact Frank Randall, External Affairs, 2300 Clarendon Blvd., Suite 1300, Arlington, Virginia 22201; (tel) 703–235–4473; (fax) 703–235–4495; (e-mail) info@nwtrb.gov.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's high-level radioactive waste and commercial spent nuclear fuel. In that same legislation, Congress directed the DOE to characterize a site at Yucca Mountain in Nevada for its suitability as a potential location for a permanent repository for disposing of that waste.

Dated: April 14, 1998.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 98–10220 Filed 4–16–98; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23109; 812–9544]

State Street Bank and Trust Company; Notice of Application

April 13, 1998.

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

ACTION: Notice of application for exemption under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') from sections 17(a)(1) and 17(a)(2) of the Act.

SUMMARY OF APPLICATION: Applicant State Street Bank and Trust Company requests an order that would permit it to engage in repurchase agreements and currency transactions with certain affiliated registered management investment companies (the ''Funds'') for which applicant serves as custodian. Applicant will be an affiliated person, or an affiliated person of an affiliated person, of a Fund solely by reason of applicant's owning, controlling, or holding 5% or more (but less than 20%) of the outstanding voting securities of the Fund. The requested order would not extend to transactions between applicant and a Fund when applicant or an affiliated person of applicant is the investment adviser to the Fund.

FILING DATES: The application was filed on March 17, 1995, and amended on December 20, 1995. Applicant has agreed to file another amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Any interested person 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 May 8, 1998 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 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. Applicant: 225 Franklin Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942–0571, or Nadya B. Roytblat, Assistant Director, 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 (tel. 202–942–8090).

Applicant's Representations

1. Applicant is a wholly-owned subsidiary of State Street Boston Corporation, a publicly held bank holding company. Applicant is organized as a trust company under the laws of the Commonwealth of Massachusetts and is a member of the Federal Reserve System. Applicant is a ''bank'' as that term is defined by section 2(a)(5) of the Act and meets the qualifications set forth in section 26(a)(1) of the Act for an investment company custodian. Applicant offers a wide variety of commercial and trust services, including custodian services to registered investment companies.

2. One division of applicant, Capital Markets, is a dealer in government securities, foreign currency, and other instruments. Another division of applicant, Global Advisors, manages money on a discretionary basis for registered investment companies, collective and common trust funds, and separate accounts. Global Advisors may invest client funds in a wide variety of investment products, including shares of Funds. As a result of the investment activities of Global Advisors, applicant may at times own, hold, or control with the power to vote more than 5% of the shares of a Fund.

3. Applicant proposes to enter into repurchase agreements and currency transactions with the Funds for which applicant serves as custodian. As a Fund's custodian, applicant is in a unique position to afford the Fund certain advantages, such as added investment flexibility, advantageous prices, and accurate and efficient settlements for these types of transactions.

Applicant's Legal Analysis

1. Sections 17(a)(1) and 17(a)(2) of the Act prohibit an affiliated person of a Fund, or an affiliated person of an affiliated person of the Fund, from knowingly selling to or purchasing from the Fund any security or other property. Applicant represents that the purchase and sale of repurchase agreements are the types of transactions covered by section 17. Applicant also states that the proposed currency transactions may be covered by section 17 to the extent they involve the purchase or sale of property.

2. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly

owned, controlled, or held with power to vote, by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person.

3. Applicant states that, as a result of the investment activities of Global Advisors, as described above, applicant may at times own, control, or hold with the power to vote 5% or more of the outstanding shares of a Fund and therefore constitute an affiliated person of the Fund. Furthermore, Funds may be affiliates of each other when they share common officers, directors, or investment advisers because the Funds may be deemed to be under common control. As a result, applicant states that, when it owns, controls, or holds with power to vote 5% or more of the outstanding shares of a Fund, it may be deemed to be an affiliated person of an affiliated person of all Funds in the same complex as the Fund.

4. Under section 17(b), the SEC may issue an order of exemption from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Under section 6(c), the SEC may exempt any person, security, or transaction from any provision of the Act or any rule thereunder 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. Applicant asserts that the proposed transactions meet the standards set forth in sections 6(c) and 17(b).

5. Applicant represents that the requested relief would be conditioned on a Fund's adoption of certain procedures (the ''Procedures''). Applicant asserts that the Procedures require careful monitoring by a Fund of securities transactions with applicant. Applicant states that the Procedures provide a mechanism to determine that: (a) the security to be purchased or sold by a Fund is consistent with the investment policy and objectives of that Fund and with the interests of its shareholders and is comparable to other similar securities in which the Fund is authorized to invest and currently is purchasing; (b) the terms of the proposed transaction are reasonable and fair to the shareholders of that Fund and do not involve overreaching on the part of any person concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

6. Applicant submits that the primary purpose of section 17(a) is to prevent persons with the power to control an investment company from using that power to such persons' own pecuniary advantage (*i.e.*, to prevent self-dealing). Applicant asserts that the degree of its affiliation with a Fund, coupled with the Procedures to be adopted by a Fund with respect to repurchase agreements and currency transactions with applicant, ameliorate the concerns underlying section 17. Further, applicant represents that there is or will be no express or implied understanding between applicant and the investment adviser of any Fund that such investment adviser will cause any Fund to enter into the transactions with applicant or give a preference to applicant in effecting such transactions between the Funds and applicant.

7. Applicant states that preventing a Fund from effecting repurchase agreement (''repo'') transactions with applicant when applicant is the Fund's custodian would significantly limit the Fund's opportunity to obtain operational and processing cost savings on its repo transactions as well as impede its flexibility to invest cash balances late in the day. Applicant asserts that repo transactions with third parties which involve a transfer of securities through the Fed Wire to a Fund's custodian bank cannot be effected after 3:00 p.m. because the Fed Wire closes at that time. As a practical matter, applicant notes that such repo transactions generally have to be initiated well before 3:00 p.m. in order to insure consummation prior to the close. By contrast, applicant believes that repo transactions can be effected with applicant by Funds, for which applicant is custodian, after the close of the Fed Wire, because a transfer of securities can be effected through internal bookkeeping entries by applicant.

8. Applicant states that, in circumstances in which applicant is a Fund's custodian and is effecting repo transactions with the Fund, applicant has adopted detailed procedures designed to give the Fund an ownership and/or perfected security interest in the collateral (*i.e.*, the securities underlying the repo transaction). Applicant believes that these procedures ameliorate the risks associated with repo transactions when custody is maintained by the repo counterparty and not transferred to a third party. These risks may involve the insolvency of, and consequent default by, the repo counterparty, an attempt by the repo counterparty to retain assets (or offset against assets) when a dispute arises between the parties, or losses resulting from fraud or operational error due to the Fund's inability to determine whether the collateral exists.

9. Applicant states that the securities underlying the repo transaction are maintained either in the Fund's custody account or on behalf of the specific Fund in an omnibus custodial account maintained by applicant at the Federal Reserve Bank of Boston. Applicant states that, in both cases, the securities are transferred to, or identified in, the custody account against a transfer of moneys out of the Fund's account to applicant's proprietary account. Applicant contends that the repo transaction securities so maintained are the assets of the Fund, not of applicant. Accordingly, applicant asserts that the risk of insolvency and the risks associated with commingling of assets are eliminated. Moreover, applicant states that in its capacity as custodian for the Fund, applicant marks its books and records to reflect the Fund's interest in the repo transaction securities. In addition, applicant states that written confirmations specifying the particular securities which are the subject of the repo transactions currently are sent to the Funds at the end of each trading day. In applicant's view, these procedures provide the Funds the same types of protections as would be the case if the securities were transferred to a third party.

10. Applicant states that the inability of a Fund to effect foreign currency transactions with applicant, when applicant is custodian for the Fund, could inhibit the ability of the Fund to obtain best price and execution on its foreign currency transactions and deprive the Fund of certain operational advantages and efficiencies.

11. Generally, the settlement of Fund transactions in foreign equity and debt securities is effected in the currency of the country of the issuer or the country in which the securities are traded. Thus, the Funds buy foreign currency to settle purchase transactions within foreign markets and sell foreign currency that they receive in the settlement of transactions in foreign markets. In addition, Funds often convert dividends or interest payments denominated in a particular currency into U.S. dollars or another currency. Some of the Funds also may enter into forward currency exchange contracts as a means of managing exchange rate risks. A Fund may enter into a foreign currency contract covering foreign securities held by the Fund in order to reduce or eliminate foreign currency exposure. Applicant states that the Funds will

represent that they will enter into foreign currency contracts in compliance with Investment Company Act Release No. 10666 (Apr. 18, 1979).

12. Currency transactions are entered into by telephone or computer. There is no centralized trading floor. Commercial banks act as the core of this market, quoting bid/asked prices and acting as principals. The spread between the bid and the asked price in the foreign exchange markets represents the potential profit to the market maker and the compensation for its perceived risk in quoting the price and selling or holding the currency. Foreign exchange rates generally are obtained through automated quotation systems. Applicant states that the Reuters Monitor Money Rates Service (''Reuters'') is the money rate quote service that currently is recognized in the currency markets as the most reliable.

13. Applicant asserts that of particular importance to Funds in many cases are ''odd lot'' currency transactions, established by industry practice as those involving a United States dollar value of less than $1 million. Currency dealers generally do not make an active market in odd lot currency transactions, and indications for such transactions are not reported on Reuters. The exchange rate that can be obtained for an odd lot currency transaction generally varies directly with the size of the transaction and the type of currency.

14. Applicant is a dealer in foreign currency and provides competitive quotations twenty four hours a day five days a week on over forty currencies. The most favorable price and execution on foreign currency transactions are normally achieved by requesting competitive quotations from foreign currency dealers with respect to a particular currency. The character of the market for a particular currency may vary widely in terms of price and availability. Therefore, applicant believes that it is important that the Funds have the ability to obtain quotations from as many major currency dealers as possible, including itself, to ensure that they are obtaining the most favorable price. Particularly when applicant is among a small number of competitive dealers in a currency, a Fund's ability to obtain the most favorable price or prompt execution would be directly restricted if a Fund is denied access to applicant.

15. Applicant represents that access to applicant is particularly significant in connection with odd lot currency transactions. When applicant serves as a Fund's custodian, it will ordinarily accommodate any odd lot currency transaction required for securities settlement or related to the conversion of dividend and/or interest payments denominated in a particular currency into U.S. dollars or another currency. Because currency dealers do not make an active market in odd lot transactions, a Fund could have difficulty obtaining favorable prices and executions for these transactions absent the ability to effect transactions with applicant.

16. Applicant states that the inability to effect foreign currency transactions with applicant when applicant is the Fund's custodian also would deprive the Fund of certain operational advantages and efficiencies. Settlement procedures for transactions with applicant in these cases are simpler and more easily coordinated than transactions with third parties, resulting in a lower trade settlement failure rate. In addition, applicant can execute foreign currency transactions for the Fund after normal business hours. Moreover, applicant, in its role as custodian, monitors the settlement process for all foreign exchange and security transactions. As a result, if there is a trade settlement failure, applicant is positioned to quickly identify the failure and minimize the costs to the Fund.

17. Applicant states that its experience has been that Funds may at times engage in foreign currency transactions representing a significant percentage of their assets. As a result, applicant proposes that there will be no limit on the amount of a Fund's total assets that may be committed to foreign currency transactions with applicant. Applicant also represents that a significant percentage of currency transactions effected by applicant involve settlement terms that may range from one day to six months. Accordingly, applicant proposes that there will be no limit on the length of the currency contracts permitted under the requested relief.

Applicant's Conditions

If the requested relief is granted, applicant agrees to comply with the following conditions.

A. General Conditions

1. The board of directors of each Fund, including a majority of the directors who are not interested persons of the Fund, (a) will adopt procedures that are reasonably designed to provide that the conditions set forth below have been complied with; (b) will make and approve such changes to the procedures as deemed necessary; and (c) will determine no less frequently than quarterly that the transactions made pursuant to the order during the preceding quarter were effected in compliance with such procedures. The investment adviser of each Fund may implement these procedures, subject to the direction and control of the board of directors of each Fund. Applicant will only engage in repurchase agreements and currency transactions with Funds that agree to adhere to the specific conditions set forth below and have furnished evidence to applicant that they will agree to abide by the conditions.

2. Each Fund (a) will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) and a copy of the notice and order issued on the application; and (b) will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, a written record of each transaction setting forth a description of the transaction, including the identity of the person on the other side of the transaction, the terms of the transaction, and the information or materials upon which the determinations described below were made.

3. No Fund will engage in transactions with applicant if applicant exercises a controlling influence over that Fund. Applicant will have no affiliation with a Fund, except that applicant may directly or indirectly own, control, or hold less than 20% of the outstanding voting securities of the Fund.

4. The transactions entered into by a Fund will be consistent with the investment objectives and policies of that Fund as recited in that Fund's registration statement and reports filed under the Act.

B. Repurchase Agreements

1. Any repurchase agreement will meet the portfolio quality requirements set forth in paragraph (c)(3) of rule 2a–7 under the Act and be ''collateralized fully'' as defined in rule 2a–7.

2. The quality, yield, and maturity of any repurchase agreement will be at least as favorable to a Fund as compared to other repurchase agreements that are appropriate for that Fund and that are being entered into during a comparable period of time.

C. Currency Transactions

1. At the time any currency transaction is consummated, applicant's short-term debt instruments will meet the portfolio quality requirements of a ''First-Tier Security'' set forth in rule 2a–7 under the Act.

2. Before any currency transaction is entered into, the Fund or its adviser must obtain such available market information as they deem necessary to determine that the price to be paid or received for, and the terms of, each transaction are at least as favorable as that available from other sources. This shall include the following information, without limitation:

With respect to round lot currency transactions, the Fund must obtain and document the competitive indications with respect to the specific proposed transaction, either from two other currency dealers or from one currency dealer and from an automated quotation system approved by the board of directors of the Fund, including a majority of non-interested directors. In the case of odd lot currency transactions, the Fund must obtain and document the competitive indications with respect to (a) the specific proposed transaction from two other currency dealers; and (b) a round lot transaction of the same currency with the same settlement terms from one other currency dealer or an automated quotation system. Competitive quotation information must include price and settlement terms. Dealers must be those who, in the experience of the Fund's adviser, have demonstrated the consistent ability to provide professional execution of currency transactions at competitive market prices in the currencies of the type desired. The dealers also must be those who, in the experience of the Fund's adviser, are in a position to quote favorable prices.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–10183 Filed 4–16–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39853; File No. SR–Amex–97–48]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval To Proposed Rule Change Relating to Listing and Trading of Index Warrants on the Merrill Lynch 1998 Equity Focus Index

April 13, 1998.

I. Introduction

On December 22, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to approve for listing and trading index warrants based on the Merrill Lynch 1998 Equity Focus Index (''Index'').

The proposed rule change was published for comment in the **Federal Register** on February 3, 1998.[3] No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled index warrants based on the Index, an equal-dollar weighted index developed by Merrill Lynch, Pierce, Fenner & Smith, Inc. The Exchange has represented that the listing and trading of warrants based on the Index will comply in all respects with Amex Rules 1100 through 1110 and Section 106 of the Amex Company Guide.

Design of the Index

The Exchange has represented that the Index is narrow-based[4] and composed of the stocks (or American Depositary Receipts (''ADRs'') thereon) of 17 companies[5] representing various industries that are traded on the New York Stock Exchange (''NYSE'') or through the facilities of the National Association of Securities Dealers Automated Quotation system (''Nasdaq''). The Index is equal-dollar weighted and is, therefore, designed to ensure that each of the component securities is initially represented in an approximately ''equal'' dollar amount in the Index. Accordingly, each of the 17 companies included in the Index will represent approximately 5.882 percent of the weight of the Index at the time of issuance of the warrant. The Index multipliers will be determined to yield an Index value of 100.00 on the date the warrant is priced for initial offering to the public.

According to the Amex, the total market capitalization of the Index totaled $380 billion on December 10, 1997. The median capitalization of the companies in the Index on that date was $9.4 billion and the average market capitalization of these companies was $22 billion. The individual market capitalization of the companies ranged from $1.7 billion to $106 billion. In addition, minimum monthly trading volume in the Index stocks ranged from approximately 330,000 shares to 54.4 million shares during the six month period from June through November 1997.

According to the Exchange, 15 of the Index's 17 component securities meet the current criteria for standardized options trading set forth in Rule 915. Only two component securities, Telecom Italia SpA and Toyota Motor Corporation, are represented by ADRs and according to the Amex, in both instances, comprehensive surveillance sharing arrangements are in place with the appropriate regulatory authorities in each relevant country. The Amex represents that no component security represents more than 25% of the weight of the index and the five highest weighted securities do not account for more that 50% of the weight of the Index.

Amex contemplates listing a single issuance of warrants based on the Index,[6] with a term ranging from one to three years. If the Amex seeks to list and trade other products based on the Index, including other issuances of Index warrants, the Exchange will advise the Commission to determine whether an additional filing pursuant to Rule 19b–4[7] is necessary. In addition, if the term of the warrants exceeds one year, the Exchange will monitor the options eligibility of the underlying securities. If less that 75% of the weight of the Index is composed of securities that are options eligible, the Amex will notify the Commission.[8]

Maintenance of the Index

Shares of a component stock may be replaced (or supplemented) with other securities under certain circumstances, such as the conversion of a component stock into another class of security, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 39580 (January 26, 1998) 63 FR 5577.

[4] Telephone conversation between Claire McGrath, Vice President and Special Counsel, Amex, and Deborah Flynn, Division of Market Regulation (''Division''), Commission, on January 22, 1998.

[5] The component securities of the Index are as follows: Bank of New York Co., Inc.; Chubb Corp.; Comcast Corporation; Cracker Barrel Old Country Stores; Delta Airlines, Inc.; DST Systems, Inc.; Federal National Mortgage Association; Guidant Corporation; Masco Corp.; Office Depot, Inc.; Pfizer, Inc.; Protective Life Corp.; Questar Corp.; Tenet Healthcare Corp.; Telecom Italia SpA; KLM Royal Dutch Airlines; and Toyota Motor Corporation.

[6] Telephone conversation between Claire McGrath, Vice President and Special Counsel, Amex, and Deborah Flynn, Division, Commission, on January 22, 1998.

[7] 17 CFR 240.19b–4.

[8] Telephone conversation between Claire McGrath, Vice President and Special Counsel, Amex, and Deborah Flynn, Division, Commission, on April 8, 1998.