

that the SEC will consider whether the participation of the investment company is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of the other participants. Applicants state that each Investing Fund, Wells Fargo, and each Money Market Fund could be deemed to be participants in a joint enterprise or other joint arrangement.

2. Applicants believe that the proposed transactions meet the standards for relief under rule 17d-1. Applicants state that the investment by the Investing Funds in shares of the Money Market Funds would be on the same basis as any other shareholder. Applicants further believe that the proposed transactions would be beneficial to each of the participants and that there is no basis on which to believe that any participant would benefit to a greater extent than any other. Applicants note that Wells Fargo and any sub-advisers will not receive any increased investment advisory fees under the proposed transactions, though they may experience reduced clerical costs.

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 from the Investing Funds will not be subject to a sales load or redemption fee. Nor will such shares be subject to a distribution fee under a plan adopted in accordance with rule 12b-1 under the Act, or a service fee (as defined in Rule 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers), or if such shares are subject to any such a distribution fee or service fee, Wells Fargo will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such distribution and/or service fees incurred by the Investing Fund.

2. Wells Fargo will waive its advisory fee for each Investing Fund in an amount that offsets the amount of the advisory fees of a Money Market Fund incurred by the Investing Fund.

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% of the Investing Fund's total net assets. For purposes of this limitation, each Investing Fund or series thereof will be treated as a separate investment company.

4. Investment 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 prospectus and statement 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 Wells Fargo, or a person controlling, controlled by, or under common control with Wells Fargo.

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.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-15153 Filed 6-5-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23238; 812-11018]

Wilmington Trust Company, et al.; Notice of Application

June 2, 1998.

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

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

SUMMARY OF APPLICATION: Applicants request an order to permit certain collective investment funds to transfer their assets to certain portfolios of registered open-end management companies in exchange for shares of the portfolios.

APPLICANTS: Wilmington Trust Company ("WTC"); Wilmington Trust Corporation ("Wilmington Trust"); The Rodney Square Strategic Equity Fund ("Strategic Equity Fund"); and the Rodney Square Fixed Income Fund ("Strategic Fixed-Income Fund," and collectively with the Strategic Equity Fund, the "Funds").

FILING DATES: The application was filed on February 20, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request

a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 24, 1998, 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 Commission's Secretary.

ADDRESSES: Secretary, Security and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Applicants, 1100 N. Market Street, Wilmington, Delaware 19890-0001.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942-0527, or George J. Zornada, Branch Chief at (202) 942-0564, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942-8090).

Applicants' Representations

1. WTC, a Delaware state-chartered bank, is a wholly-owned subsidiary of Wilmington Trust, a bank holding company. WTC serves as custodian and investment manager and/or trustee for numerous employee benefit plans qualified under section 401 of the Internal Revenue Code of 1986, as amended. The assets of some of these employee benefit plans are invested in collective investment funds ("CIFs") sponsored by WTC and for which WTC acts as trustee. Each CIF includes assets of retirement benefit plans for employees of entities unaffiliated with WTC ("Other Plans") as well as assets of retirement benefit plans for employees of WTC and its affiliates ("Affiliated Plans") (Other Plans and Affiliated Plans are collectively referred to as the "Plans"). Assets of Affiliated Plans represent 24% to 41% of the assets of each CIF.

2. Both the Strategic Equity Fund and the Strategic Fund-Income Fund are Massachusetts business trusts registered under the Act as open-end management investment companies and may offer several portfolios ("Portfolios"). Each Fund is offered and sold without a sales load, redemption fee, asset-based distribution fee or shareholder servicing

fee. The Strategic Equity Fund currently consists of one Portfolio, the Large Cap Growth Equity Portfolio. The Strategic Fixed-Income Fund currently consists of two Portfolios, the Diversified Income Portfolio and the Municipal Income Portfolio. WTC is the investment adviser for each of the Portfolios and will serve as the investment adviser for each new Portfolio.¹

3. WTC is terminating the CIFs and intends to transfer in-kind the Plans' assets in the CIFs to each of the existing and certain newly created Portfolios (the "Conversion"). In the Conversion the Funds will accept a transfer of securities from one or more CIFs with substantially similar investment objectives in exchange for Portfolio shares having a total net asset value equal to the market value of the transferred securities (the "Proposed Transactions"). The Proposed Transactions will be as follows:

CIF	Corresponding portfolio
Growth Stock Fund.	Large Cap Growth Equity Portfolio.
Value Stock Fund.	Large Cap Value Equity Portfolio (New).
Small Cap Stock Fund.	Small Cap Equity Portfolio (New).
International Stock Fund.	International Equity Portfolio (New).
Intermediate Bond Fund.	Diversified Income Portfolio. ²
Bond Fund	Intermediate Bond Portfolio (New).

² At or about the time of the Conversion, the name of the Diversified Income Portfolio will be changed to "Short-Intermediate Bond Portfolio."

Applicants state that the Conversion is expected to occur on June 26, 1998.

4. The CIF assets to be transferred to the Portfolios will be valued in accordance with the provisions of rule 17a-7(b) under the Act. The Fund shares received by the CIFs then will be distributed, *pro rata*, to all Plans whose interests were converted as of the date of the transfer.

5. Applicants request relief to effect the Proposed Transactions. Applicants also request relief for any other registered open-end management investment company that may be advised by WTC or an entity controlling, controlled by, or under common control with WTC, and any other CIF sponsored by WTC in which employee benefit plans established and

maintained for the benefit of employees of WTC or its affiliates own five percent or more of the assets that in the future may convert into the registered open-end investment company ("Future Transactions"). Applicants state that they will rely on the requested relief for Future Transactions only in accordance with the terms and conditions contained in this application.

Applicant's Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling to or purchasing from such investment company any security or other property. Section 2(a)(3) of the Act, in relevant part, defines "affiliated person" to include: (a) any person directly or indirectly owning, controlling, or holding with the power to vote, five percent or more of the outstanding voting securities of such other person; (b) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and (c) if such other person is an investment company, any investment adviser thereof. Because the CIFs may be viewed as acting as principals in the Proposed Transactions and because CIFs and the Funds may be viewed as being under the common control of WTC within the meaning of section 2(a)(3)(C) of the Act, the Proposed Transactions may be subject to the prohibitions contained in section 17(a).

2. Rule 17a-7 under the Act exempts certain purchase and sale transactions otherwise prohibited by section 17(a) if an affiliation exists solely by reason of having a common investment adviser, common directors, and/or common officers, provided, among other requirements, that the transaction involves a cash payment against prompt delivery of the security. Rule 17a-7 is not available for the Conversion because WTC and Wilmington Trust may be deemed to have direct or indirect beneficial interest (either as sponsor of an Affiliated Plan or because WTC's employees or its affiliates' employees are participants in the Affiliated Plans) in the CIFs in excess of five percent of the assets of the CIFs, which creates an affiliation "not solely by reason of" having common investment adviser, common directors, and/or common officers. In addition, the Conversion will be effected as an in-kind transfer, rather than in cash.

3. Rule 17a-8 under the Act exempts certain mergers, consolidations, and sales of assets of registered investment companies from the provisions of

section 17(a) of the Act if an affiliation exists solely by reason of having a common investment adviser, common directors, and/or common officers, provided, among other requirements, that the board of directors of each investment company makes certain determinations. Rule 17a-8 is not available for the Conversion because the CIFs are not registered investment companies and because the CIFs and the Funds have affiliations other than those covered by the rule.

4. Section 17(b) of the Act provides that the Commission shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

5. Section 6(c) provides that the Commission may exempt any person or transaction from any provision of the Act or any rule thereunder 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.

6. Applicants seek an order under sections 6(c) and 17(b) of the Act to permit the Proposed Transactions and Future Transactions. Applicants submit that the proposed transactions satisfy the standards for relief under sections 6(c) and 17(b). Applicants assert that the terms of the Proposed Transactions are reasonable and fair and do not involve overreaching on the part of any applicant; the investment objectives, policies, and restrictions of the CIFs are compatible with and substantially similar to the applicable Funds' investment objectives, policies, and restrictions; and the Proposed Transactions and the requested exemption are in the public interest, consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

7. Applicants agree to comply with 17a-7 and 17a-8 to the extent possible. Applicants state that the Proposed Transactions are in accordance with procedures previously adopted by the Funds' board of trustees (the "Boards") pursuant to rule 17a-7(e), and the provisions of rule 17a-7(b), (c), (d), and (f) will be satisfied. The Proposed Transactions will take place as in-kind transfers from the CIFs to the Funds, rather than cash transactions as required

¹ As a "bank" within the meaning of section 202(a)(2) of the Investment Advisers Act of 1940 (the "Advisers Act"), WTC is excluded from the definition of an investment adviser in section 202(a)(11) of the Advisers Act and, accordingly, is exempt from the registration requirements of section 203 of the Advisers Act.

by rule 17a-7(a). Applicants assert that if the Proposed Transactions were effected in cash, the CIFs and the Plans would have to bear unnecessary expense and inconvenience in transferring assets to the Funds. In addition, in order for the Conversion to take place, the Boards, including a majority of the disinterested members, shall have determined that the participation of each Portfolio in the Proposed Transactions is in the best interests of that Portfolio and that the interests of existing shareholders of the Portfolio will not be diluted as a result of the Conversion. Such findings and the basis on which they were made will be fully recorded by the Funds.

8. Applicants also state that the Plans are all employee benefit plans subject to the Employment Retirement Income Security Act of 1974 ("ERISA"). Section 406(a) of ERISA prohibits certain types of transactions between a plan and "parties in interest" (such as a plan fiduciary, a service provider, or an employer whose employees are covered by the plan). Because WTC is a fiduciary of the Affiliated Plans and the adviser to the Portfolios, the Conversion would be prohibited by section 406 of ERISA. WTC plans to submit an application for an exemption to the Department of Labor ("DOL"). To comply with the anticipated requirements for the exemption, the Conversions will be approved by each Affiliated Plan's employee benefit review committee (the "Committee"), which serves as a fiduciary for the Plan. In addition, if required by the DOL, the Conversion will be reviewed and approved by a fiduciary independent of WTC, Wilmington trust and their affiliates (an "Independent Fiduciary"), who will be retained solely for the purpose of determining the fairness to the Affiliated Plans of the Proposed Transactions.

Applicants' Conditions

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

1. The Proposed Transactions will comply with the terms of Rule 17a-7(b)-(f).

2. The Proposed Transactions will not occur unless and until: (a) the Boards (including a majority of their disinterested members) and the Committee and any Independent Fiduciary for the Affiliated Plans required by the DOL find that the Proposed Transactions are in the best interests of the Portfolios and the Plans, respectively; and (b) the Boards (including a majority of the disinterested members) find that the

interests of the existing shareholders of the Portfolios will not be diluted as a result of the Proposed Transactions. These determinations and the basis upon which they are made will be recorded fully in the records of the Funds and the Affiliated Plans, respectively.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-15154 Filed 6-5-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following open meeting during the week of June 8, 1998.

An open meeting will be held on Friday, June 12, 1998, at 11 a.m.

The subject matter of the open meeting scheduled for Friday, June 12, 1998, at 11 a.m., will be:

Consideration of whether to propose for public comment an amendment to rule 102(e) of the Commission's Rules of Practice clarifying the Commission's standard for determining when accountants engage in "improper professional conduct." For further information, please contact, Michael J. Kigin, Associate Chief Accountant, Office of Chief Accountant at (202) 942-4400.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: June 4, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98-15362 Filed 6-4-98; 3:52 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40050; File No. SR-NASD-98-37]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to SelectNet Fees

June 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 14, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is herewith filing a proposed rule change to extend, through August 31, 1998, the fees currently charged under NASD Rule 7010(1) for the execution of transactions in SelectNet. Under the proposed extension, SelectNet fees would continue to be assessed in the following manner: (1) \$1.00 will be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part; (2) no fee will be charged to a member who receives and executes a directed SelectNet order; (3) the existing \$2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a \$.025 fee will remain in effect for any member who cancels a SelectNet order. If no further action is taken, SelectNet fees will revert to their original \$2.50 per-side level on September 1, 1998.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at places specified in Item IV below. The self-

¹ 15 U.S.C. 78s(b)(1).