

companies) and a schedule setting forth the number and date of each installment payment.

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

Margaret H. McFarland,

Deputy Secretary.

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[Rel. No. IC-20932; 812-9454]

Dean Witter Select Equity Trust, et al.

March 1, 1995.

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

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

APPLICANTS: Dean Witter Select Equity Trust and Dean Witter Reynolds Inc. ("Dean Witter").

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) of the Act that would exempt applicants from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a terminating series of a unit investment trust to sell portfolio securities to a new series of the trust.

FILING DATE: The application was filed on January 26, 1995 and amended on February 16, 1995.

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 March 27, 1995 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, c/o Dean Witter Reynolds Inc., Unit Trust Department, Two World Trade Center, New York, NY 10048, Attn.: Thomas Hines.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942-0573, or Robert A. Robertson, 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. Dean Witter Select Equity Trust, a unit investment trust registered under the Act, consists of several series (each a "Series"). All of the Series currently outstanding are Select 10 Series ("Select 10 Series"). Dean Witter is the Series' sponsor. Applicants request that the relief sought herein apply to future Series for which Dean Witter serves as sponsor.

2. The investment objective of each Selection 10 Series is to seek a greater total return than the stocks comprising the entire related index (e.g., the Dow Jones Industrial Average, the Hang Seng Index, or the Financial Times Ordinary Share Index) (each an "Index"). Each Select 10 Series acquires approximately equal values of the tens stocks in the Index having the highest dividend yields as of a specified date, and holds those stocks for approximately one year. Dean Witter intends that, as each Select 10 Series terminates, a new Series based on the appropriate Index will be offered for the next year.

3. Each Series has a contemplated date (a "Rollover Date") on which holders of units in that Series (a "Rollover Series") may at their option redeem their units in the Rollover Series and receive in return units of a subsequent Series of the same type (a "New Series") which is created on or about the Rollover Date, and has a portfolio which contains securities ("Qualified Securities") which are (i) actively traded (i.e., have had an average daily trading volume in the preceding six months of at least 500 shares equal in value to at least 25,000 United States dollars) on an exchange (a "Qualified Exchange") which is either (a) a national securities exchange which meets the qualifications of section 6 of the Securities Exchange Act of 1934 or (b) a foreign securities exchange which meets the qualifications set out in the proposed amendment to rule 12d3-1(d)(6) under the Act as proposed by the SEC and which releases daily closing prices, and (ii) included in an Index.

4. There is normally some overlap from one year to the next in the stocks having the highest dividend yields in an Index and, therefore, between the portfolio of a Rollover Series and the New Series. In the case of the Select 10 Industrial Portfolio 94-1 as compared to the Select 10 Industrial Portfolio 95-1,

eight of the ten securities were identical. In connection with its termination, Series 94-1 sold all of its securities on the New York Stock Exchange as quickly as practicable. Likewise, the portfolio of Series 95-1 was acquired in purchase transactions on the New York Stock Exchange. This procedure creates brokerage commissions on portfolio securities of the same issue that are borne by the holders of units of both the Rollover Series and the New Series. Applicants, therefore, request an exemptive order to permit any Rollover Series to sell portfolio securities to a New Series and a New Series to purchase those securities.

5. In order to minimize overreaching, applicants agree that Dean Witter will certify in writing to the trustee, within five days of each sale from a Rollover Series to a New Series, (a) that the transaction is consistent with the policy of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of such transaction, and (c) the closing sales price on the Qualified Exchange for the sale date of the securities subject to such sale. The trustee will then countersign the certificate, unless, in the unlikely event that the trustee disagrees with the closing sales price listed on the certificate, the trustee immediately informs Dean Witter orally of any such disagreement and returns the certificate within five days to Dean Witter with corrections duly noted. Upon Dean Witter's receipt of a corrected certificate, if Dean Witter can verify the corrected price by reference to an independently published list of closing prices for the date of the transactions, Dean Witter will ensure that the price of units of the New Series, and distributions to holders of the Rollover Series with regard to redemption of their units or termination of the Rollover Series, accurately reflect the corrected price. To the extent that Dean Witter disagrees with the trustee's corrected price, Dean Witter and the trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally makes it unlawful for an affiliated person of a registered investment company to sell securities to or purchase securities from the company. Investment companies under common control may be considered affiliates of one another. The Series may be under common control because they have Dean Witter as a sponsor.

2. Pursuant to section 17(b), the SEC may 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 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 classes of transactions 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 proposed transactions satisfy the requirements of sections 6(c) and 17(b).

3. Rule 17a-7 under the Act permits registered investment companies that might be deemed affiliates solely by reason of common investment advisers, directors, and/or officers, to purchase securities from or sell securities to one another at an independently determined price, provided certain conditions are met. Paragraph (e) of the rule requires an investment company's board of directors to adopt and monitor procedures for these transactions to assure compliance with the rule. A unit investment trust does not have a board of directors and, therefore, may not rely on the rule. Applicants represent that they will comply with all of the provisions of rule 17a-7, other than paragraph (e).

4. Applicants represent that purchases and sales between Series will be consistent with the policy of each Series, as only securities that would otherwise be bought and sold on the open market pursuant to the policy of each Series will be involved in the proposed transactions. Applicants further believe that the current practice of buying and selling on the open market leads to unnecessary brokerage fees on sales of securities and is therefore contrary not only to the policies of the Series but to the general purposes of the Act.

Applicants' Conditions

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

1. Each sale of Qualified Securities by a Rollover Series to a New Series will be effected at the closing price of the securities sold on a Qualified Exchange on the sale date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to

investors in the appropriate prospectus of each future Rollover Series and New Series.

3. The trustee of each Rollover Series and New Series will (a) review the procedures relating to the sale of securities from a Rollover Series and the purchase of securities for deposit in a New Series and (b) make such changes to the procedures as the trustee deems necessary that are reasonably designed to comply with paragraphs (a) through (d) of rule 17a-7.

4. A written copy of these procedures and a written record of each transaction pursuant to this order will be maintained as provided in rule 17a-7(f).

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

Margaret H. McFarland,

Deputy Secretary.

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[Investment Company Act Release No. 20937; 813-136]

EIP Inc.; Notice of Application

March 2, 1995.

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

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: EIP Inc.

RELEVANT ACT SECTIONS: Applicant seeks a conditional order under sections 6(b) and 6(e) granting an exemption from all the provisions of the Act, and the rules thereunder, except section 9, certain provisions of section 17 and the related rules thereunder, and sections 36 through 53, and the rules thereunder.

SUMMARY OF APPLICATION: Applicant seeks to form limited partnerships (the "Partnerships") of which it will be the general partner and which will be employees' securities companies within the meaning of section 2(a)(13) of the Act, and to engage in certain affiliated and joint transactions with the Partnerships.

FILING DATES: The application was filed on September 1, 1994, and amended on November 1, 1994, January 13, 1995, and February 15, 1995.

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 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 March 27, 1995, 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, NW., Washington, DC 20549. Applicant, South Tower, World Financial Center, 225 Liberty Street, New York, New York 10080-6123.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 942-0581, or C. David Messman, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Delaware corporation and an indirect wholly-owned subsidiary of Merrill Lynch & Co., Inc. ("ML&Co."). ML&Co. is a diversified financial services holding company that through its subsidiaries provides investment, financing, insurance, and related services. Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), ML&Co.'s principal subsidiary, is a registered broker-dealer. ML&Co. and its affiliated companies are herein referred to as the "ML Group."

2. Applicant or another direct or indirect wholly-owned subsidiary of ML&Co. formed for such purpose will be the "General Partner" of each of the Partnerships.¹ The General Partner proposes to establish Partnerships from time to time for the benefit of highly compensated key employees of the ML Group. The Partnerships will be part of a program designed to create capital buildings opportunities competitive with those at other investment banking firms for ML&Co.'s professionals and managers and to facilitate its recruitment of professionals and managers. Each Partnership will operate as a non-diversified closed-end management investment company and will meet the definition of an

¹ The "General Partner" refers to applicant or another wholly-owned subsidiary of ML&Co. in its role as the general partner of a Partnership or the functional equivalent with respect to any Partnership organized as a business trust or limited liability company.