

provisions to other persons or circumstances will not be affected.

For the U.S. Nuclear Regulatory Commission.

Dated: December 2, 1996.

James M. Taylor,

Executive Director for Operations.

For the State of Vermont.

Dated: December 10, 1996.

George L. Lowe,

Director, Vermont Emergency Management.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-22492; 812-10396]

John Nuveen & Co. Incorporated and Nuveen Tax-Free Unit Trusts; Notice of Application

February 4, 1997.

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

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

APPLICANTS: John Nuveen & Co. Incorporated (the "Sponsor"), Nuveen Tax-Free Unit Trusts (the "Nuveen Trust"), and any future trusts sponsored by the Sponsor (together with the Nuveen Trust, the "Trusts"), and their respective series (each, a "Series" or a "Trust Series").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from sections 2(a)(32), 2(a)(35), 12(d)(3), 14(a), 19(b), 22(d), and 26(a)(2) of the Act, and rules 19b-1 and 22c-1 thereunder; under section 11(a) for an exemption from section 11(c); and under sections 6(c) and 17(b) for an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order to permit: (a) the Trust to impose sales charges on a deferred basis, and to waive the deferred sales charge in certain circumstances; (b) certain offers of exchange involving the Trusts; (c) units of the Trusts to be publicly offered without requiring the Sponsor to take for its own account or place with others \$100,000 worth of units in those Trusts; (d) certain Trusts to distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt; (e) a terminating Series of a Trust to sell portfolio securities to a new Series of the Trust; and (f) certain Trust Series to invest up to 10.5%, and certain other Trust Series to invest up to 20.5% of their assets in the securities of issuers

that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities.

FILING DATE: The application was filed on October 15, 1996.

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 3, 1997, 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 request, 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 Fifth Street N.W., Washington, D.C. 20549. Applicants: 333 West Wacker Drive, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942-0581, or Mary Kay Frech, 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.

Applicants' Representations

1. Each Trust is or will be a unit investment trust registered as an investment company under the Act. Each of the Trusts is sponsored by the Sponsor, and is made up of one or more Series of separate unit investment trusts issuing securities registered or to be registered under the Securities Act of 1933. Each Series is created by a Trust Indenture (the "Indenture") between the Sponsor and a banking institution or trust company as trustee (the "Trustee"). The Sponsor is a wholly-owned subsidiary of The John Nuveen Company, of which approximately 78% is owned by The St. Paul Companies, Inc.

2. The fundamental structures of the Trusts and the various Series are similar in most respects, however, the investment objectives may differ. In all cases, the Sponsor will acquire a portfolio of securities which it then deposits with the Trustee in exchange for certificates representing units of

fractional undivided interest ("Units") in the deposited portfolio. The Units are then offered to the public through the Sponsor and dealers at a public offering price which, during the initial offering period, is based upon the aggregate offering side evaluation of the underlying securities plus a front-end sales charge. This sales charge is the maximum amount applicable to any particular Series of a Trust and currently ranges from 4.9% to 2.5% of the public offering price, depending on the term of the underlying securities. The Sponsor may reduce the sales charge under certain circumstances, which will be disclosed in the prospectus. Any such reduction will be made in accordance with rule 22d-1.

3. The Sponsor maintains a secondary market for Units of outstanding Series, and continually offers to purchase these Units at prices based upon the bid side evaluation of the underlying securities. Investors may purchase Units on the secondary market at the current public offering price plus a front-end sales charge. If the Sponsor discontinues maintaining such a market at any time for any Series, holders of Units ("Unitholders") of such a Series may redeem their Units through the Trustee.

A. Deferred Sales Charge

1. The Sponsor proposes to implement a program for one or more Trust Series under which part or all of the sales charge would be deferred. Under applicants' deferred sales charge ("DSC") proposal, the Sponsor will determine both the maximum amount of the sales charge per Unit, and whether to defer the collection of all or part of the sales charge over a period (the "Collection Period") subsequent to the settlement date for the purchase of Units. The Sponsor will in no event add to the deferred amount of the sales charge any additional amount for interest or any similar or related charge to reflect or adjust for such deferral.

2. The Sponsor anticipates collecting a portion of the total sales charge immediately upon the purchase of Trust Units. The balance of the sales charge will be collected over the Collection Period for the particular Trust Series. A ratable portion of the sales charge remaining to be collected will be deducted from each Unitholder's distributions on the Units ("Distribution Deductions") during the Collection Period until the total amount of the sales charge per Unit is collected. If distribution income is insufficient to pay a DSC installment, the Trustee, pursuant to the powers granted in the Indenture, will have the ability to sell portfolio securities in an amount

necessary to provide the requisite payments. If a Unitholder redeems his or her Units before the total sales charge has been collected from installment payments, the Sponsor intends to deduct any amount of unpaid DSC from sale or redemption proceeds. Applicants represent that the total of all these amounts will in no event exceed the maximum sales charge per Unit.

3. For purposes of determining whether a DSC applies to a particular redemption or sale of Units, the Sponsor will assume that Units on which the total aggregate of Distribution Deductions has been collected are liquidated first. Any Units disposed of over and above such amounts will be subject to the DSC, which will be applied on the assumption that Units held for the longest time are redeemed first. Therefore, the DSC will be the balance of the sales charge per Unit, determined as of the date of purchase, which remains owing and uncollected. The Sponsor may in the future choose to waive the DSC in connection with redemption or sales of Units under certain circumstances. Any such waiver of the DSC will be disclosed in the prospectus and will be implemented in accordance with rule 22d-1.

4. The Sponsor believes that the DSC program will be adequately disclosed to potential investors as well as Unitholders. The prospectus for each Trust Series will describe the operation of the DSC, including the amount and date of each Distribution Deduction, and the duration of the Collection Period. The prospectus also will disclose that the Trustee may sell Trust securities in the event that income generated by the Trust portfolio is insufficient to pay for DSC expenses. Applicants also state that each annual report will provide Unitholders with information as to the aggregate amount of annual DSC payments made by the Trust during the previous fiscal year on both a Series and per Unit basis. Further, the securities confirmation statement for each Unitholder's purchase transaction will state both the front-end sales charge and the DSC that will be imposed, and that the DSC will be withdrawn in regular installments from distribution payments made to Unitholders.

B. Exchange Option and Rollover Option

1. Applicants also seek an exemption to permit offers of exchange among Series of the Trusts (the "Exchange Option"), and offers of exchange made in connection with the termination of Trust Series (the "Rollover Option"). The Exchange Option will extend to all exchanges of Units sold either with a

front-end sales charge or with a DSC. The Rollover Option will give Unitholders the ability to "roll over" any or all of their Units in a Series of a Trust (each, a "Rollover Trust") that is terminating for Units of a new Trust Series of the same type (a "New Trust") at a reduced sales charge.

2. An investor who purchases Units under either the Exchange Option or the Rollover Option will pay a lower sales charge than that which would be paid by a new investor. The reduced sales charge imposed will be reasonably related to the expenses incurred in connection with the administration of the program, which may include an amount that will fairly and adequately compensate the Sponsor and the participating underwriters and brokers for their services in providing the program.

3. The sales charge on Units acquired pursuant to the Exchange option generally will be reduced from maximum sales charges ranging from 4.9% to 2.5% of the public offering price (5.5% to 0% for sales on the secondary market) to a flat fee (e.g., \$25 per 100 Units for Units of a Series whose initial cost was approximately \$10 per Unit, or \$25 per 1,000 Units for Units of a Series whose initial cost was approximately \$1.00 per Unit) or a percentage of the public offering price. An adjustment will be made if Units of any Trust Series are exchanged within five months of their acquisition for Units of a Trust Series with a higher sales charge (the "Five Months Adjustment"). An adjustment also will be made if Units that impose Distribution Deductions are exchanged for Units of a Trust Series that imposes a front-end sales charge at any time before the Distribution Deductions (plus any portion of the sales charge on the exchanged Units collected up front) have at least equaled the per Unit sales charge then applicable on the acquired Units (the "DSC Front-end Exchange Adjustment"). In cases involving either the Five Months or the DSC Front-end Exchange Adjustment, the exchange fee will be the greater of: (a) the reduced sales charge, or (b) an amount which, together with the sales charge already paid on the Units being exchanged, equals the normal sales charge on the Units of the Trust Series being acquired through such exchange (the "Exchange Trust"), determined as of the date of the exchange. The Sponsor may waive, with appropriate disclosures, such exchange fee, and reserves the right to vary the sales charge normally applicable to a Series, to vary the charge applicable to exchanges, and to modify, suspend, or terminate the Exchange Option as set

forth in the conditions to the application.

4. Under the Exchange Option, if DSC Units are exchanged for DSC Units of another Series, the reduced sales charge will be collected in connection with such an exchange. The Distribution Deductions will continue to be taken from the investment income generated by the newly acquired Units, or proceeds from the sale of Trust portfolio securities, as the case may be, until the original balance of the sales charge owed on the initial investment has been collected. The DSC due on the initial investment will not be collected at the time of exchange, except in the case of any exchange to a Series not having a DSC.

5. Under the Rollover Option, Unitholders of Rollover Trusts may elect by a certain date (the "Rollover Notification Date") to redeem their Units in a terminating Rollover Trust, and invest in Units of a New Trust, which is created on or about the Rollover Notification Date, at a reduced sales charge. Unitholders making such an election will be referred to as "Rollover Unitholders." The applicable sales charge upon the initial investment in a Rollover Trust typically is 2.9% of the public offering price, while the reduced sales charge applicable to a Rollover Unitholder's investment in a New Trust usually will be 1.9% of the public offering price.

C. Purchase and Sale Transactions Between a Rollover Trust and a New Trust

1. Applicants also request an exemption to permit any Rollover Trust to sell their portfolio securities to a New Trust, and the New Trust to purchase these securities. Each Rollover Trust will contain a portfolio of equity securities (the "Equity Securities") representing a portion of a specific published index (an "Index"). The Equity Securities in each portfolio will be: (a) Actively traded (*i.e.*, have had an average daily trading volume in the preceding six months of a least 500 shares equal in value to at least U.S. \$25,000) on (i) an exchange (an "Exchange") which is either a national securities exchange that meets the qualifications of section 6 of the Securities Exchange Act of 1934, or a foreign securities exchange ("Foreign Exchange") that meets the qualifications set forth in a proposed amendment to rule 12d3-1(d)(6) under the Act,¹ and

¹ Investment Company Act Release No. 17096 (Aug. 3, 1989) (proposing amendments to rule 12d3-1). The proposed amendment defined a "Qualified Foreign Exchange" to mean a foreign

which releases daily closing prices, or (ii) the Nasdaq-National Market System ("Nasdaq-NMS"); and (b) included in an Index.

2. The investment objective of each Rollover Trust is to seek a greater total return than that achieved by the stocks comprising the entire Index over the life of the Rollover Trust. To achieve this objective, each Rollover Trust will consist of a specified number of the highest dividend yielding securities in such Rollover Trust's respective Index, or in a specified number of the lowest dollar price per share of the highest dividend yielding securities in such Rollover Trust's respective Index. For example, certain Rollover Trusts (the "Ten Series") will invest for a specified period in approximately equal values in the ten common stocks contained in the Dow Jones Industrial Average (the "DJIA"), the Financial Times Industrial Ordinary Share Index (the "FT Index"), or the Hang Seng Index, having the highest yields as of no more than three business days prior to the Ten Series' initial date of deposit. In addition, other Rollover Trusts (the "Five Series") will pursue their objective by investing for a specified period in approximately equal values in the common stocks of the five companies with the lowest dollar price per share of the ten companies in the DJIA, the FT Index, or the Hang Seng Index, having the highest dividend yields as of no more than three business days prior to the Five Series' initial date of deposit.

3. The securities deposited in each Rollover Trust are chosen solely according to the formulas described above and set forth in the prospectus for the Rollover Trust. The Sponsor will not have any discretion as to which securities are purchased, because securities are initially purchased in accordance with the formulas described above. The Rollover Trust's portfolios will not be actively managed and will not be altered to reflect changes to those stocks comprising the top dividend yielding stocks (or lowest priced stocks of the top dividend yielding stocks) in an Index on a date after the Rollover Trust's initial date of deposit. The Sponsor does not have discretion as to when securities will be sold, except that the Sponsor is authorized to sell securities in extremely limited circumstances, such as a default by the issuer on the payment on any of its outstanding obligations, a decline in the price of an Equity Security, or other

credit factors that, in the opinion of the Sponsor, would cause the retention of the securities to be detrimental to the Rollover Trust.

4. Each Rollover Trust will hold its securities for a specified period, generally one year. As the Rollover Trust terminates, the Sponsor intends to create a New Trust for the next period. With respect to the Rollover Trusts, the New Trust will be based on the same Index, using the same number of current top dividend yielding securities (or of the lowest price per share securities of the highest dividend yielding securities, whichever is applicable) in the Index.

5. There normally is some overlap from year to year of the highest dividend yielding securities (or the lowest dollar price per share stocks of the highest dividend yielding securities) in an Index and, therefore, between the portfolios of each terminating Rollover Trust and the related New Trust. For example, of the ten highest dividend yielding securities on the DJIA as of May 1995, eight were among the top ten dividend yielding securities at approximately the same time the following year.

6. In connection with its termination, each Rollover Trust will sell all of its portfolio securities on an Exchange or Nasdaq-NMS as quickly as practicable, but over a period of time so as to minimize any adverse impact on the market price. Similarly, a New Trust will acquire its portfolio securities in purchase transactions on an exchange or non Nasdaq-NMS. This procedure will result in substantial brokerage commissions on portfolio securities of the same issue that are borne by the Unitholders of both the Rollover Trust and the New Trust.

7. In light of these costs, applicants request exemptive relief to permit any Rollover Trust having the characteristics described above to sell Equity Securities to a New Trust, and to permit the New Trust to purchase Equity Securities at the closing sales price of such securities on the applicable Exchange or on Nasdaq-NMS on the sale date, *provided* that applicants comply with rule 17a-7 under the Act, except for paragraph (e) thereof, as discussed below.

8. In order to minimize overreaching, the Sponsor will certify to the Trustee, within five days of each sale from a Rollover Trust to a New Trust: (a) That the transaction is consistent with the policy of both the Rollover Trust and the New Trust, 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 Exchange or on Nasdaq-NMS for the sale date of the

securities subject to such sale. The Trustee will then countersign the certificate, unless the Trustee disagrees with the price listed on the certificate, in which event the Trustee will immediately inform the Sponsor orally of any such disagreement and returns the certificate within five days to the Sponsor with corrections duly noted. Upon the Sponsors receipt of a corrected certificate, if the Sponsor can verify the corrected price by reference to an independently published list of closing sales prices for the date of the transactions, the Sponsor will ensure that the price of Units of the New Trust, and distributions to Unitholders of the Rollover Trust with regard to redemption of their Units or termination of the Rollover Trust, accurately reflect the corrected price. If the Sponsor disagrees with the Trustee's corrected price, the Sponsor 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.

D. Investments in Securities Related Issuers on Certain Indexes

1. Applicants also request an exemption to permit the Ten Series to acquire securities of an issuer that derives more than 15% of its gross revenues from "securities related activities" (as defined in rule 12d3-1(d)(1)), provided that: (a) Those securities are included in the DJIA, the FT Index, or the Hang Seng Index; (b) they have one of the ten highest yields of stocks comprising the DJIA, the FT Index, or the Hang Seng Index no more than three business days prior to the initial date of deposit; and (c) the value of the securities deposited of each securities related issuer represents no more than approximately 10%, but in no event more than 10.5%, of the value of that Ten Series' total assets as of its initial date of deposit. In addition, Applicants request an exemption to permit the Five Series to acquire securities of an issuer that derives more than 15% of its gross revenues from "securities related activities" (as defined in rule 12d3-1(d)(1)), provided that: (a) those securities are included in the DJIA, the FT Index, or the Hang Seng Index; (b) they are securities of one of the five companies with the lowest dollar price per share of the ten stocks in the DJIA, the FT Index, or the Hang Seng Index having the highest dividend yield as of no more than three business days prior to the initial date of deposit; and (c) the value of the securities deposited of each securities related issuer represents no more than

stock exchange meeting certain standards with respect to trading volume and other matters. As subsequently amended, however, the rule omitted that proposed definition.

approximately 20%, but in no event more than 20.5%, of the value of that Five Series' total assets as of its initial date of deposit.

2. As noted above, the Ten Series and the Five Series will contain a portfolio of Equity Securities which represents a portion of the DJIA, the FT Index, or the Hang Seng Index. The DJIA comprises 30 widely-held common stocks listed on the New York Stock Exchange that are chosen by the editors of *The Wall Street Journal*. The FT Index comprises widely-held common stocks listed on the London Stock Exchange that are chosen by the editors of the *The Financial Times* (London). The FT Index is an unweighted average of 30 companies representative of British industry and commerce. The Hang Seng Index is a weighted average of 33 companies representative of Hong Kong industry. The publishers of the Dow Jones & Company, Inc. (owner of the DJIA), the FT Index, and the Hang Seng Index are unaffiliated with any Series or the Sponsor and do not participate in any way in the creation of any Series or the selection of its stocks.

3. Certain of the stocks currently comprising the DJIA, the FT Index, and the Hang Seng Index are issued by companies with subsidiaries engaged in "securities related activities" (as defined in rule 12d3-1(d)(1)), revenues of which may from time to time represent more than 15% of the issuer's gross revenues. It also is possible that additional companies in the DJIA, the FT Index, and the Hang Seng Index may acquire companies engaged in or enter into those business in the future.

Applicants' Legal Analysis

1. Applicants request an exemption under section 6(c) granting relief from sections 2(a)(32), 2(a)(35), 22(d), 26(a)(2), and rule 22c-1 to permit them to assess a DSC, and to waive the DSC under certain circumstances. Applicants also request an exemption under section 11(a) granting relief from section 11(c) to enable them to implement the Exchange and Rollover Options. In addition, applicants request an exemption under sections 6(c) and 17(b) granting relief from section 17(a) to permit a terminating Series of a Trust to sell portfolio securities to a new Series of the Trust. Finally, applicants seek an exemption under section 6(c) granting relief from sections 12(d)(3), 14(a), 19(b), and rule 19b-1 to the extent described below.

2. Section 2(a)(32) of the Act defines a "redeemable security" as a security that, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate

share of the issuer's current net assets, or the cash equivalent of those assets. Because the imposition of a DSC may cause a redeeming Unitholder to receive an amount less than the net asset value of the redeemed Units, applicants request an exemption from section 2(a)(32) so that Units subject to a DSC are considered redeemable securities for purposes of the Act.²

3. Section 2(a)(35) of the Act, in relevant part, defines the term "sales load" to be the difference between the public selling price of a security and that portion of the sale proceeds invested or held for investment by the depositor or trustee. Because a DSC is not charged at the time of purchase, applicants request an exemption from section 2(a)(35).

4. Rule 22c-1, in relevant part, prohibits a registered investment company issuing a redeemable security from selling, redeeming, or repurchasing any such security, except at a price based on the current net asset value of such security. Because the imposition of a DSC may cause a redeeming Unitholder to receive an amount less than the net asset value of the redeemed Units, applicants request an exemption from rule 22c-1.

5. Section 22(d) of the Act requires an investment company and its principal underwriter and dealers to sell securities issued by such investment company only at the current public offering price as described in the investment company's prospectus. Because sales charges traditionally have been a component of the public offering price, section 22(d) historically required that all investors be charged the same load. Rule 22d-1 was adopted to permit the sale of redeemable securities with scheduled variations in the sales load. Applicants submit that waivers, deferrals or other scheduled variations, if disclosed in the relevant prospectus, would be consistent with section 22(d), and that rule 22d-1 contemplates and permits such waivers, deferrals or other scheduled variations if disclosed in the relevant prospectus. In the interest of clarity, however, applicants seek relief from section 22(d) to permit scheduled variations or waivers of the DSC under certain circumstances.

6. Section 26(a)(2) of the Act, in relevant part, prohibits a trustee or custodian of a unit investment trust from collecting from the trust as an expense any payment to a depositor or

principal underwriter thereof. Because of this prohibition, applicants request an exemption to permit the trustee to collect the charge from income distributions on the Units and disburse them to the Sponsor as contemplated by the DSC program.

7. Section 6(c) of the Act provides, in relevant part, that the SEC, by order upon application may exempt any person or transaction, or any class or classes of persons or transactions, from any provision of the Act or any rule thereunder if such exemption is 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 granting the requested relief from sections 2(a)(32), 2(a)(35), 22(d), 26(a)(2), and rule 22c-1 would meet the requirements for an exemption established by section 6(c).

8. Section 11(c) of the Act prohibits any offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company, unless the terms of the offer have been approved by the SEC. Applicants request an exemption under section 11(a) from the provisions of section 11(c) to permit exchanges of Units of Trust Series sold with front-end or deferred sales charges at reduced sales charges, and to permit exchange transactions made in connection with the termination of a Series at a reduced sales charge. Applicants believe that the reduced sales charge imposed at the time of exchange is a reasonable and justifiable expense to be allocated for the professional assistance and operational expenses which are contemplated in connection with the Exchange and the Rollover Option. Applicants further believe that the requirement that a person who has acquired Units at a lower sales charge pay the difference, if greater than the reduced fixed charge, upon exercising the Exchange Option when the Five Months Adjustment or the DSC Front-end Exchange Adjustment applies is appropriate in order to maintain the equitable treatment of various investors in each Trust Series.

9. Section 14(a) of the Act requires in substance that investment companies have \$100,000 of net worth prior to making a public offering. Applicants believe that each Series will comply with this requirement because the Sponsor will deposit substantially more than \$100,000 of debt or equity securities or a combination thereof, depending on the objective of the particular Series. Applicants assert, however, that the SEC has interpreted

² Without an exemption, a Trust selling Units subject to a DSC could not meet the definition of a unit investment trust under section 4(2) of the Act. As here relevant, section 4(2) defines a unit investment trust as an investment company that issues only "redeemable securities."

section 14(a) as requiring that the initial capital investment in an investment company be made without any intention to dispose of the investment. Applicants state that, under this interpretation, a Trust Series would not satisfy section 14(a) because of the Sponsor's intention to sell all the Units thereof. Rule 14a-3 exempts unit investment trusts from this provision if certain conditions are complied with, one of which is that the trust invest only in "eligible trust securities," as defined in the rule. Applicants intend that certain future Series of the Trusts (collectively, the "Equity Trusts") will invest all or a portion of their assets in Equity Securities, and therefore may not rely on this rule because Equity Securities are not eligible trust securities. Applicants, therefore, request an exemption under section 6(c) from the net worth requirement of section 14(a). Applicants will comply in all respects with rule 14a-3, except that the Equity Trusts will not restrict their portfolio investments to "eligible trust securities."

10. Section 19(b) of the Act and rule 19b-1 provide that, except under limited circumstances, no registered investment company may distribute long-term gains more than once every twelve months. Rule 19b-1(c), under certain circumstances, excepts a unit investment trust investing in "eligible trust securities" (as defined in rule 14a-3) from the requirements of rule 19b-1. Because the Equity Trusts do not limit their investments to "eligible trust securities," such Trusts will not qualify for the exemption in paragraph (c) of rule 19b-1. Therefore, applicants request an exemption under section 6(c) from section 19(b) and rule 19b-1 to the extent necessary to permit capital gains earned in connection with the sale of portfolios securities to be distributed to Unitholders along with the Equity Trust's regular distributions. In all other respects, applicants will comply with section 19(b) and rule 19b-1.

11. Applicants believe that the dangers which section 19(b) and rule 19b-1 are designed to prevent do not exist in the Equity Trusts. Any gains from the sale of portfolio securities would be triggered by the need to meet Trust expenses, DSC installments, or by requests to redeem Units, events over which the Sponsor and the Equity Trusts have no control. Applicants acknowledge that the Sponsor has control over the actual redemption of Units to the extent it makes a market in Units. Applicants assert, however, that the Sponsor has no incentive to redeem or permit the redemption of Units in order to generate capital gains for the

purpose against which section 19(b) and rule 19b-1 were designed to protect. Moreover, since principal distributions must be clearly indicated in accompanying reports to Unitholders as a return of principal and will be relatively small in comparison to normal dividend distributions, there is little danger of confusion from failure to differentiate among distributions.

12. Section 17(a) of the Act makes it unlawful for an affiliated person of a registered investment company to purchase securities from, or sell securities to such registered investment company. Investment companies under common control may be considered affiliated persons of one another. Each Series will have an identical or common Sponsor, John Nuveen & Co. Incorporated. As the Sponsor of each Series might be considered to control each Series, it is likely that each Series would be considered an affiliated person of the others.

13. Section 17(b) of the Act provides that 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 policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. As noted above, 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. Because section 17(b) applies to a specific proposed transaction and not to ongoing series of future transactions, applicants also request relief from section 17(a) under section 6(c). Applicants believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b).

14. 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 the 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).

15. Applicants submit that the proposed transactions will be consistent with the policy of the Trust, as only securities that otherwise would be bought and sold on the open market pursuant to the policy of each Trust Series will be involved in the proposed transactions. In addition, applicants state that such purchases from and/or sales to such affiliated investment companies will take place only upon the occurrence of a redemption of Units or the termination of a Rollover Trust and the creation of a New Trust. Applicants further believe that the current practice of buying and selling on the open market leads to unnecessary brokerage fees, and is therefore contrary to the general purposes of the Act.

16. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1, in relevant part, exempts from section 12(d)(3) purchases by an investment company of securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested not more than 5% of the value of its total assets in securities of the issuer.

17. Applicants seek an exemption under section 6(c) from the provisions of section 12(d)(3) to permit each Ten Series to invest up to approximately 10%, but in no event more than 10.5%, of the value of any Ten Series' assets in the securities of an issuer of any of the ten highest dividend yielding stocks in the DJIA, the FT Index, or the Hang Seng Index that derives more than 15% of its gross revenues from securities related activities. Similarly, applicants seek an exemption to permit each Five Series to invest up to approximately 20%, but in no event more than 20.5%, of the value of any Five Series' assets in the securities of an issuer of any of the five stocks having the lowest dollar price per share of the ten highest yielding stocks in the DJIA, the FT Index, or the Hang Seng Index, that derives more than 15% of its gross revenues from securities related activities. Applicants represent that each Ten Series and Five Series will comply with all of the conditions of rule 12d3-1, except the condition prohibiting an investment company from investing more than 5% of the value of its total assets in securities of a securities related issuer.

18. Applicants submit that the purpose of section 12(d)(3) was to: (a) prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses; (b) prevent potential conflicts of interest; (c) eliminate certain reciprocal practices between investment companies and securities related businesses; and (d) ensure that investment companies maintain adequate liquidity in their portfolios. Applicants assert that the proposed transaction does not give rise to the type of abuses section 12(d)(3) was designed to address. Applicants also believe that the requested relief meets the standards for an exemption set forth in section 6(c).

Applicants' Conditions

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

A. Conditions With Request to DSC Relief and Exchange and Rollover Options

1. Whenever the Exchange Option or Rollover Option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, *provided that*: (a) no such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the Exchange Option or the Rollover Option, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either: (i) there is a suspension of the redemption of Units of the Trust under section 22(e) of the Act and the rules and regulations promulgated thereunder, or (ii) a Trust temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies, and restrictions.

2. An investor who purchases Units under the Exchange Option or the Rollover Option will pay a lower sales charge than that which would be paid for the Units by a new investor.

3. The prospectus of each Trust offering exchanges or rollovers and any sales literature or advertising that mentions the existence of the Exchange Option or the Rollover Option will disclose that such Exchange Option or Rollover Option is subject to modification, termination, or

suspension, without notice except in certain limited cases.

4. Each Series offering Units subject to a DSC will include in its prospectus the table required by item 2 of Form N-1A (modified as appropriate to reflect the differences between unit investment trusts and open-end management investment companies), and a schedule setting forth the number and date of each installment payment.

B. Condition for Exemption From Section 12(d)(3)

No company held in the Ten Series' portfolio or the Five Series' portfolio, nor any affiliate thereof, will act as broker for any Ten Series or Five Series in the purchase or sale of any security for such Series' portfolio.

C. Condition for Exemption From Section 14(a)

Applicants will comply in all respects with the requirements of rule 14a-3, except that the Equity Trusts will not restrict their portfolio investments to "eligible trust securities."

D. Conditions for Exemption From Section 17(a)

1. Each sale of Equity Securities by a Rollover Trust to a New Trust will be effected at the closing price of the securities sold on the applicable Exchange or the Nasdaq-NMS 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 Trust and New Trust.

3. The Trustee of each Rollover Trust and New Trust will: (a) review the procedures discussed in the application relating to the sale of securities from a Rollover Trust and the purchase of those securities for deposit in a New Trust, 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 any order granting the application will be maintained as provided in rule 17a-7(f).

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-3266 Filed 2-10-97; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Mitcham Industries, Inc., Common Stock, \$0.01 Par Value) File No. 1-13490

February 5, 1997.

Mitcham Industries, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Pacific Stock Exchange, Inc. ("PSE").

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

The Company originally listed on the PSE when its Security was listed on the Nasdaq SmallCap Market in order to obtain the blue sky secondary market trading exemptions afforded by the PSE listing. Since April 26, 1996, the Company's Security has been listed on the Nasdaq National Market System, which provides secondary market trading exemptions for all states. In addition, the Company believes that there is insignificant trading of its Security on the PSE.

Any interested person may, on or before February 27, 1997, submit by letter to the Security 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 exchanges 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. 97-3265 Filed 2-10-97; 8:45 am]

BILLING CODE 8010-01-M

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 meeting during the week of February 10, 1997.