

Class Y shares of the corresponding Evergreen Fund. Each such class of shares of the Evergreen Fund has the same distribution-related fees, if any, as the shares of the class of Virtus Funds held prior to the Reorganization and no initial sales charge will be imposed in connection with Class A shares of the Evergreen Funds received by Virtus Fund shareholders.

6. The investment objectives of each Virtus Fund and its corresponding Acquiring Fund are similar. The investment restrictions and limitations of each Virtus Fund and corresponding Acquiring Fund are substantially similar, but in some cases involve differences that reflect the differences in the general investment strategies utilized by the Funds.

7. The Board of each Fund approved the Reorganization as in the best interests of existing shareholders and determined that the interests of existing shareholders will not be diluted as a result of the Reorganization. The Bank will be responsible for the expenses incurred in connection with the Reorganization.

8. The Board of each Fund considered a number of factors in authorizing the Reorganization, including: (a) The terms and conditions of the Reorganization; (b) whether the Reorganization would result in the dilution of shareholders' interests; (c) expense ratios, fees and expenses of the Funds participating in the Reorganization; (d) the comparative performance records of the Acquiring Fund and Virtus Fund; (e) compatibility of the Funds' investment objectives and policies; (f) the investment experience, expertise and resources of the Funds' advisers; (g) service features available to shareholders of the respective Acquiring Fund and Virtus Fund; (h) the fact that the Bank will bear the expenses incurred by the Funds in connection with the Reorganization other than the Acquiring Fund's federal and state registration fees; (i) the fact that the Acquiring Funds will assume certain stated liabilities of the Virtus Fund; and (j) the expected federal income tax consequences of the Reorganization.

9. The Reorganization is subject to a number of conditions precedent, including requirements that: (a) the Plans have been approved by the Boards of the Acquiring Funds and the Virtus Funds and each of such Fund's shareholders in the manner required by law; (b) the Virtus Funds and the Acquiring Funds have received opinions of counsel stating, among other things, that the Reorganization will constitute a "reorganization" under section 368 of the Internal Revenue Code of 1986, as amended and, as a

consequence, the Reorganization will not result in Federal income taxes for the Fund or its shareholders; and (c) the Virtus Funds and the Acquiring Funds have received from the SEC an order exempting the Reorganization from the provisions of the Act as requested in the application. Applicants agree not to make any material changes to the Plans that affect the application without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act provides that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, knowingly: (a) To sell any security or other property to such registered company; or (b) to purchase from such registered company any security or other property. Section 2(a)(3) of the Act defines the term "affiliated person" of another person to include: (a) Any person owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such 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 such other person; (c) any person controlling, controlled by, or under common control with, such other person; and (d) if such other person is an investment company, any investment adviser of the person.

2. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) of the Act mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

Applicants believe that the proposed transactions may not be exempt from the prohibitions of section 17(a) by reason of rule 17a-8 because the Funds may be affiliated for reasons other than those set forth in the rule. The Virtus Funds may be affiliated persons of the Bank because the Bank, as fiduciary for its customers, owns of record or controls or holds with the power to vote 5% or more of the outstanding securities of the Virtus Funds. The Bank, in turn, is an affiliated person of the Evergreen Funds because the Bank, or one of its subsidiaries, serves as adviser to the Evergreen Funds. In addition, the Evergreen Funds may be affiliated persons of the Bank because the Bank, as fiduciary for its customers, owns of record or controls or holds with the power to vote 5% or more of the

outstanding securities of the Evergreen Funds and a subsidiary of the Bank (*i.e.*, Virtus) is the adviser to the Virtus Funds. Consequently, applicants are requesting an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganization.

3. Section 17(b) of the Act provides that the SEC may exempt a transaction from section 17(a) of the Act if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned; (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.

4. Applicants submit that the Reorganization satisfies the provisions of section 17(b) of the Act. The Board of each of the Funds has determined that the transactions are in the best interests of the shareholders. In approving the Plans, the Boards of the Funds considered: (a) That the interests of Fund shareholders will not be diluted; (b) that the Virtus and Acquiring Funds' investment objectives and policies are generally substantially identical; (c) that no sales charges will be imposed; (d) that the conditions and policies of rule 17a-8 will be followed; and (e) that no overreaching by any affiliated person is occurring.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23012; 812-10776]

Weiss, Peck & Greer Funds Trust, et al.; Notice of Application

January 30, 1998.

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

ACTION: Notice of application for an exemption under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") from section 17(a) of the Act to permit in-kind redemptions of shares of certain registered open-end management investment companies held by shareholders who are affiliated persons of the investment companies.

Applicants: Weiss, Peck & Greer Funds Trust, Weiss, Peck & Greer International Fund, WPG Growth and Income Fund, WPG Growth Fund, WPG Tudor Fund, Tomorrow Funds Retirement Trust, RWB/WPG U.S. Large Stock Fund (collectively, the "Funds"), and Weiss, Peck & Greer, L.L.C. (the "Adviser").

Filing Date: The application was filed on September 10, 1997, and amended on January 2, 1998. Applicants have agreed to file an amendment to the application 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. 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 February 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 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, One New York Plaza, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Joseph B. McDonald, Jr., Senior Counsel, at (202) 942-0533, 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, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202-942-8090).

Applicants' Representations

1. Each Fund is an open-end management investment company registered under the Act. Weiss, Peck and Greer Funds Trust currently consists of the following series: WPG Government Money Market Fund, WPG Tax-Free Money Market Fund, WPG Government Securities Fund, WPG Intermediate Municipal Bond Fund, WPG Institutional Short Duration Fund and WPG Quantitative Equity Fund. Tomorrow Funds Retirement Trust currently consists of the following

series: Tomorrow Long-Term Retirement Fund, Tomorrow Medium-term Retirement Fund, Tomorrow Short-Term Retirement Fund and Tomorrow Post-Retirement Fund. Each other Fund is a single series investment company. Each Fund is organized as a Massachusetts business trust, except Tomorrow Funds Retirement Trust and RWB/WPG U.S. Large Stock Fund, which are organized as Delaware business trusts. The overall management of each Fund rests with its board of trustees (collectively, the "Boards"). A majority of the trustees of each Fund are not "interested persons" (as defined in section 2(a)(19) of the Act) (the "Non-Interested Trustees") of such Fund. The Adviser, registered as an investment adviser under the Investment Advisers Act of 1940, serves as the investment adviser to the Funds.

2. Shares of each Fund may be redeemed at the net asset value ("NAV") per share next determined after the Fund's transfer agent receives a proper redemption request. The Funds' prospectuses and statements of additional information (together, the "Prospectus") provide that, in limited circumstances, any Fund may satisfy all or part of a redemption request by delivering portfolio securities to a redeeming shareholder. The Boards, including a majority of the Non-Interested Trustees, have determined that the Funds should retain the discretion to effect redemptions in-kind to protect a Fund from the potentially adverse impact of liquidating a significant amount of portfolio securities in order to satisfy in cash a redemption request by a Covered Shareholder (as defined below).

3. Applicants request relief pursuant to sections 6(c) and 17(b) of the Act to exempt applicants from the provisions of section 17(a) of the Act to permit a shareholder who is an "affiliated person" of the Fund solely as a consequence of the shareholder's ownership of 5% or more of the outstanding voting securities of the Fund ("Covered Shareholder") to redeem shares of beneficial interest of the Fund in-kind (collectively, "Covered Shareholder Redemptions"). Applicants request that the relief extend to any registered open-end management investment company created in the future and each series thereof as well as each series of the Fund created in the future for which the Adviser, or a person controlling, controlled by, or under common control with the Adviser, acts as adviser of principal underwriter (collectively, "Future Funds"). Accordingly, with respect to Covered Shareholder Redemptions,

references to the terms "Fund" or "Funds" include Future Funds. All registered open-end management investment companies that intend currently to rely on the order requested are named as applicants. Any Future Fund that relies on the order requested will do so only in accordance with the terms and conditions contained in the application.

4. Securities distributed to Covered Shareholders in connection with redemptions in-kind will be valued by the same method as used to calculate a Fund's NAV per share.

5. In connection with a redemption in-kind by a Covered Shareholder, portfolio securities of a Fund may be distributed *pro rata* after excluding: (a) Securities which may not be publicly offered or sold without registration under the Securities Act of 1933; (b) securities issued by entities in countries which (i) Restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Funds, or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange; (c) certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions and repurchase agreements) that, although they may be liquid and marketable, involve the assumption of contractual obligations, require special trading facilities or can only be traded with the counterparty to the transaction to effect a change in beneficial ownership; (d) cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements); and (e) other assets which are not readily distributable (including receivables and prepaid expenses). In addition, portfolio securities representing fractional shares, odd lot securities and accruals on such securities may be excluded from portfolio securities distributed in-kind to a Covered Shareholder. Collectively all such assets are "Excluded Assets."

6. Each Fund has elected to be governed by the provisions of rule 18f-1 under the Act committing the Funds to pay in cash all requests for redemption by any shareholder of record, limited in amount with respect to each shareholder during any 90-day period to the lesser of \$250,000 or 1% of the applicable Fund's NAV at the beginning of such period. Thus, the Funds may only satisfy redemption requests in-kind in accordance with rule 18f-1.¹

¹ With respect to a Fund created in the future, the Adviser does not expect that such Fund will make

7. If a Fund subject to an election under rule 18f-1 determines to satisfy a redemption request of a Covered Shareholder in-kind, it will pay the first \$250,000 or 1% of the Fund's NAV, whichever is less, in cash or cash equivalents and the remainder in the form of a proportionate distribution of the portfolio securities held by the Fund, other than Excluded Assets. If a Fund not subject to an election under rule 18f-1 determines to satisfy a redemption request by a Covered Shareholder in-kind, it will pay all redemption proceeds in the form of a proportionate distribution of the portfolio securities held by the Fund, other than Excluded Assets. Cash will be paid for the portion of the in-kind distribution represented by Excluded Assets.

Applicants' Legal Analysis

1. Section 17(a)(2) of the Act makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, to knowingly purchase from the registered investment company any security or other property (except securities of which the seller is the issuer). Section 2(a)(3)(A) of the Act defines "affiliated person" to include any person owning 5% or more of the outstanding voting securities of the other person. Each Covered Shareholder of a Fund will own beneficially 5% or more of a Fund's shares and, thus, will be an affiliated person of that Fund. To the extent that a proposed in-kind redemption would involve the "purchase" of portfolio securities (of which the affected Fund is not the issuer) by a Covered Shareholder, the proposed in-kind redemption would be prohibited by section 17(a)(2).

2. Section 17(b) of the Act provides that, notwithstanding section 17(a), the SEC 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 each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides, in part, that the SEC, by order upon application may conditionally or

an election pursuant to rule 18f-1 under the Act. Therefore, such Fund will not be limited by the requirements of the rule 18f-1 with respect to the amount of a redemption request that may be satisfied in-kind.

unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the terms of the proposed in-kind redemptions by Covered Shareholders meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicants believe that the use of an objective, verifiable standard for the selection and valuation of any securities to be distributed in connection with a redemption in-kind will ensure that the redemption will be on terms that are reasonable and fair to the Funds, their shareholders and the Covered Shareholders and will not involve overreaching on the part of any person. Similarly, the proposed in-kind redemptions are consistent with the investment policies of the Funds, as set forth in the Funds' Prospectuses, which expressly disclose the Funds' ability to redeem shares in-kind. Finally, applicants believe that the terms of the proposed transactions are reasonable and fair to all parties and are consistent with the protection of investors and the provisions, policies and purposes of the Act.

Applicants' Conditions

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

1. The securities distributed to both Covered Shareholders and nonaffiliated shareholders pursuant to a redemption in-kind (the "In-Kind Securities") will be limited to securities that are traded on a public securities market or for which market quotations are available.

2. The In-Kind Securities will be distributed by each Fund on a *pro rata* basis after excluding: (a) Securities which may not be publicly offered or sold without registration under the Securities Act of 1933; (b) securities issued by entities in countries which: (i) Restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Funds or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange; (c) certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions and repurchase agreements) that, although they may be liquid and marketable,

involve the assumption of contractual obligations, require special trading facilities or can only be traded with the counterparty to the transaction to effect a change in beneficial ownership; (d) cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements); and (e) other assets which are not readily distributable (including receivables and prepaid expenses). In addition, portfolio securities representing fractional shares, odd lot securities and accruals on such securities may be excluded from portfolio securities distributed in-kind to a Covered Shareholder. Cash will be paid for the portion of the in-kind distribution represented by the Excluded Assets set forth above less liabilities (including accounts payable).

3. The In-Kind Securities distributed to the Covered Shareholders will be valued in the same manner as they would be valued for purposes of computing each Fund's net asset value.

4. The Funds' Boards, including a majority of the Non-Interested Trustees, will determine no less frequently than annually: (a) Whether the In-Kind Securities, if any, have been distributed in accordance with conditions 1 and 2; (b) whether the In-Kind Securities, if any, have been valued in accordance with condition 3; and (c) whether the distribution of any such In-Kind Securities is consistent with the policies of each affected Fund as reflected in its Prospectus. In addition, the Boards will make and approve such changes as they deem necessary in the procedures for monitoring the Funds' compliance with the terms and conditions of this application.

5. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which a Proposed In-Kind Redemption by a Covered Shareholder occurs, the first two years in an easily accessible place, a written record of such redemption setting forth a description of each security distributed in-kind, the identity of the Covered Shareholder, the terms of the in-kind distribution, and the information or materials upon which the valuation was made.

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

Margaret H. McFarland,

Deputy Secretary.

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