

Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

3. Applicants assert that the Fund's shareholders rely on the Adviser to select the Subadvisers best suited to achieve a Fund's investment objectives. Therefore, applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants submit that the requested relief will reduce the Funds' expenses associated with shareholder meetings and proxy solicitations, and enable the Funds to operate more efficiently. Applicants also note that the Advisory Agreement will remain subject to sections 15(a) and 15(c) of the Act and rule 18f-2 under the Act.

#### Applicants' Conditions

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

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of its outstanding voting securities, as defined in the Act, or, in the case of a Future Fund whose shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder(s) before offering shares of the Future Fund to the public.

2. The Trust will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus for each Fund will prominently disclose that the Adviser has the ultimate responsibility, subject to review of the Board, to oversee Subadvisers and recommend their hiring, termination, and replacement.

3. At all times, a majority of the board will be persons each of whom is not an "interested person" of the Trust as defined in Section 2(a)(19) of the Act ("Independent Trustees"), and the nomination of new or additional Independent Trustees will be at the discretion of the then-existing Independent Trustees.

4. The Adviser will not enter into a Sub-Advisory Agreement on behalf of a

Fund with any Affiliated Subadviser, unless that agreement, including the compensation to be paid thereunder, has been approved by the shareholders of the applicable Fund.

5. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board's minutes, that the change of Subadviser is in the best interests of the Fund and its shareholders and that the change does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any Subadviser, shareholders of the affected Fund will be furnished with all information about the new Subadviser that would be included in a proxy statement. The Adviser will meet this condition by providing shareholders of the applicable Fund with an information statement meeting the requirement of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

7. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's portfolio, and, subject to review and approval by the Board, will (i) Set the Fund's overall investment strategies; (ii) Select Subadvisers; (iii) When appropriate, recommend to the Board the allocation and allocation of a Fund's assets among multiple Subadvisers; (iv) Monitor and evaluate the performance of Subadvisers; and (v) Ensure that the Subadvisers comply with the Fund's investment objectives, policies, and restrictions.

8. No trustee or officer of the Trust or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that trustee, director or officer) any interest in a Subadviser except for (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser or (ii) Ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either the Subadviser or an entity that controls, is controlled by, or is under common control with the Subadviser. For the SEC, by the Division

of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24183; 812-11706]

### The Payden & Rygel Investment Group and Payden & Rygel; Notice of Application

December 6, 1999.

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

**ACTION:** Notice of an application for an order under sections 6(c), 12(d)(1)(f), and 17(b) of the Investment Company Act of 1940 (the "Act") for exemptions from sections 12(d)(1)(A) and (B) and 17(a) of the Act, and under section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

*Summary of the Application:* The requested order would permit certain registered management investment companies to invest uninvested cash and cash collateral in affiliated money market funds in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

*Applicants:* The Payden & Rygel Investment Group ("P&R Group"), and all existing and future registered management investment companies for which Payden & Rygel ("Payden") serves in the future as an investment adviser (collectively, the "Investment Companies") and all existing and future series of the Investment Companies ("Funds"), and Payden.

*Filing Dates:* The application was filed on July 20, 1999. 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 28, 1999, 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, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Applicants, c/o Wendell M. Faria, Esq., Paul Hastings, Janofsky and Walker, LLP, 1299 Pennsylvania Avenue, NW, 10th Floor, Washington, D.C. 20004.

**FOR FURTHER INFORMATION CONTACT:** Emerson S. Davis, Sr., Senior Counsel, at (202) 942-0714, or George J. Zornada, 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 Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549-0102 (tel. 202-942-8090).

### Applicants' Representations

1. The P&R Group, a Massachusetts business trust, is registered under the Act as an open-end management investment company. The P&R Group currently consists of twenty-three Funds, including the Bunker Hill Money Market Fund which holds itself out as a money market fund and is subject to the requirements of rule 2a-7 under the Act (together with any other future money market Funds, "Money Market Funds").<sup>1</sup> Payden, a privately-owned California company, is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and serves as investment adviser to each Fund.

2. Applicants state that each of the Funds has, or may have, uninvested cash held by its custodian ("Uninvested Cash"). Such Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, dividend payments, or money received from investors. The Funds also may participate in a securities lending program under which a Fund may lend its portfolio securities to broker-dealers or other institutional investors ("Securities Lending Program"). The loans are continuously secured by collateral equal at all times to at least the market value of the

securities loaned. Collateral for these loans may include cash ("Cash Collateral," and together with Uninvested Cash, "Cash Balances").

3. Applicants request an order to permit each of the Funds ("Investing Funds") to invest their Cash Balances in one or more Money Market Funds, and the Money Market Funds to sell their shares to, and redeem their shares from, the Investing Funds. Investment of Cash Balances in shares of Money Market Funds will be made only to the extent that such investments are consistent with each Investing Fund's investment restrictions and policies as set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and diversify holdings.

### Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides, in pertinent part, that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act, in pertinent part, provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of section 12(d)(1) if, and to the extent that, such exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(f) from the limitations of sections 12(d)(1)(A) and (B) to permit the Investing Funds to invest Cash Balances in Money Market Funds.

3. Applicants state that the proposed arrangement would not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because each Money Market Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence

over a Money Market Fund through threat of redemption. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act, or service fee (as defined in rule 2830 of the National Association of Securities Dealers' ("NASD") Conduct Rules), or, if such shares are subject to any such sales load, redemption fee, distribution fee or service fee, Payden will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund. In connection with approving any advisory contract for an Investing Fund, the Investing Fund's board of directors of trustees (the "Board"), including a majority of the directors or trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Directors or Trustees") will consider to what extent, if any, the advisory fees charged to the Investing Fund by Payden should be reduced to account for reduced services provided to the Investing Fund by Payden as a result of the investment of Uninvested Cash in the Money Market Funds. Applicants represent that no Money Market Fund will acquire securities of any other investment company of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an "affiliated person" of an investment company to include, among others, any person directly or indirectly controlling, controlled by, or under common control with the other person and any person owning, controlling, or holding with power to vote, 5% or more of the other person. Applicants state that, because the Funds share a common adviser, each Fund may be deemed to be under common control with each of the other Funds, and thus an affiliated person of each of the other Funds. In addition, if the relief is granted, an Investing Fund may acquire 5% or more of a Money Market Fund and become an affiliated person of the Money Market Fund. As a result, section 17(a) would prohibit the sale of the shares of a Money Market Fund to the Investing Funds, and the redemption of the shares by a Money Market Fund.

<sup>1</sup> All Investment Companies and Funds that currently intend to rely on the requested relief are named as applicants. Any other Investment Companies and Funds that may rely on the relief in the future will do so only in accordance with the terms and conditions of the application.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions from any provision of the Act if the 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 submit that their request for relief to permit the purchase and redemption of shares of a Money Market Fund by the Investing Funds satisfies the standards in sections 6(c) and 17(b) of the Act. Applicants note that shares of the Money Market Funds will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. Applicants state that the Investing Funds will remain their ability to invest Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies if they believe they can obtain a higher rate of return, or for any other reason. Applicants also state that a Money Market Fund has the right to discontinue selling shares to any of the Investing Funds if the Money Market Fund's Board determines that such sale would adversely affect its portfolio management and operations.

7. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants state that each Investing Fund, by purchasing shares of a Money Market Fund, Payden, by managing the assets of the Investing Funds investing in a Money Market Fund, and a Money Market Fund, by selling shares to the Investing Funds, could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d-1 under the Act.

8. Rule 17d-1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the

Commission is to consider whether the proposed transaction 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 other participants. Applicants submit that the investment by the Investing Funds in shares of a Money Market Fund would be on the same basis and would be indistinguishable from any other shareholder account maintained by the same class of the Money Market Fund and that the transactions will be consistent with the Act.

#### Applicants' Conditions

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

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act or service fee (as defined in rule 2830(b)(9) of the NASD's Conduct Rules), or if such shares are subject to any such fee, Payden will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

2. Prior to reliance on the order, an Investing Fund will hold a meeting of the Board for the purpose of voting on the advisory contract under section 15 of the Act. Before approving any advisory contract for an Investing Fund, the Board, including a majority of the Independent Directors or Trustees, taking into account all relevant factors, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by Payden should be reduced to account for reduced services provided to the Fund by Payden as a result of the Uninvested Cash being invested in the Money Market Fund. In connection with this consideration, Payden will provide the Board with specific information regarding the approximate cost to Payden of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Fund. The minute books of the Investing Fund will record fully the Board's considerations in approving the advisory contract, including the consideration relating to fees referred to above.

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

percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

4. Investment of Cash Balances 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 prospectuses and statements of additional information.

5. Each Investing Fund, each Money Market Fund, and any future Fund that may rely on the order shall be part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act and shall be advised or, provided Payden manages Cash Balances, subadvised by Payden, or a person controlling, controlled by, or under common control with Payden.

6. No Money Market Fund whose shares are acquired by an Investing Fund shall acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in Securities Lending Arrangements, a majority of the Board, including a majority of the Independent Directors or Trustees, will approve the Fund's participation in Securities Lending Arrangements. Such Independent Directors or Trustees also will evaluate the Securities Lending Arrangements and their results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of the Fund.

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

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 99-32063 Filed 12-9-99; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27108]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

December 3, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for