

**SECURITIES AND EXCHANGE  
COMMISSION****[Investment Company Act Release No.  
24745 812-12250]****Neuberger Berman Equity Funds, et  
al., Notice of Application**

November 21, 2000.

**AGENCY:** Securities and Exchange  
Commission ("Commission").**ACTION:** Notice of an application under  
section 17(b) of the Investment  
Company Act of 1940 (the "Act" for an  
exemption from section 17(a) of the Act.

*Summary of Application:* Applicants request an order to permit the series of certain registered open-end management investment companies to acquire all of the assets and stated liabilities of the series of certain other registered open-end management investment companies. Because of certain affiliations, applicants may not rely on rule 17a-8 under the Act.

*Applicants:* Neuberger Berman Equity Funds, on behalf of its underlying series: Neuberger Berman Century, Focus, Genesis, Guardian, International, Manhattan, Millennium, Partners, Regency, Socially Responsive, and Technology Funds; and Neuberger Berman Income Funds, on behalf of its underlying series: Neuberger Berman Government Money, Municipal Money, High Yield Bond, and Limited Maturity Bond Funds, as well as Neuberger Berman Cash Reserves and Neuberger Berman Municipal Securities Trust (each series individually an "Acquiring Fund" and collectively, the "Acquiring Funds"); Neuberger Berman Equity Trust, on behalf of its underlying series: Neuberger Berman Century, Focus, Genesis, Guardian, International, Manhattan, Millennium, Partners, Regency, Socially Responsive and Technology Trusts; Neuberger Berman Equity Assets, on behalf of its underlying series: Neuberger Berman Focus, Genesis, Guardian, Manhattan, Millennium, Partners and Socially Responsive Assets; Neuberger Berman Equity Series, on behalf of its underlying series: Neuberger Berman Genesis Institutional; and Neuberger Berman Income Trust, on behalf of its underlying series: Neuberger Berman Limited Maturity Bond and Institutional Cash Trusts (each series individually an "Acquired Fund" and collectively, the "Acquired Funds") (the Acquired Funds and the Acquiring Funds collectively, the "Funds"); Neuberger Berman Management Inc. ("NBMI"), and Neuberger Berman, LLC ("Neuberger Berman") (NBMI and Neuberger Berman

are referred to collectively as the "Advisers").

*Filing Dates:* The application was filed on September 13, 2000. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 14, 2000, 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, NW., Washington, DC 20549-0609; Applicants, 605 Third Avenue, 21st Floor, New York, NY 10158-3698.

**FOR FURTHER INFORMATION CONTACT:** Lidian Pereira, Senior Counsel, at (202) 942-0524 or Christine Y. Greenlees, Branch Chief, at (202) 952-0564 (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, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

**Applicant's Representations**

1. The Funds are registered under the Act as open-end management investment companies. Each of the Funds is a feeder fund in a master-feeder structure. Each Acquired Fund and its corresponding Acquiring Fund invest in the same master fund (the "Master Fund"). Each Master Fund is registered under the Act as an open-end management investment company.

2. Both NBMI and Neuberger Berman are registered as investment advisers under the Investment Advisers Act of 1940. NBMI serves as the investment adviser for each Master Fund and as the administrator for each Fund. Neuberger Berman serves as sub-adviser to each master fund. NBMI and Neuberger Berman are wholly-owned subsidiaries of Neuberger Berman, Inc., a publicly

owned holding company owned primarily by the employees of Neuberger Berman. One of the Advisers or individuals or entities that are affiliated with the Advisers hold beneficially or of record more than 5% and in some cases more than 25%, of the outstanding shares of several of the Funds. In addition, certain third parties each owns more than 5% of two of the Funds. Further, certain Funds each owns 5% or more of the corresponding Master Fund.

3. On June 6, 2000, the boards of trustees of the Acquiring Funds and the Acquired Funds (the "Boards"), respectively, including all of the trustees who are not "interested persons" of the Funds, as defined in section 2(a)(19) of the Act ("Independent Trustees"), approved an Agreement and Plan of Reorganization ("the Agreement"). Under the Agreement, each Acquiring Fund will acquire all of the assets and assume the stated liabilities of its corresponding Acquired Fund in exchange for shares of the Trust Class, Advisor Class or Institutional Class of the Acquiring Fund (the "Reorganization"). Pursuant to the Agreement, each shareholder of an Acquired Fund will receive shares of the Trust Class, Advisor Class or Institutional Class of the corresponding Acquiring Fund having an aggregate net asset value ("NAV") equal to the aggregate NAV of the Acquired Fund's shares held by that shareholder, determined as of the close of regular trading on New York Stock Exchange on the closing date (the "Closing Date"). The valuation will be made in accordance with the procedures set forth in the then-current prospectus and statement of additional information for the Funds. On or as soon as practicable after the Closing Date, the classes of shares of the Acquiring Fund received by the Acquired Fund will be distributed *pro rata* to the shareholders of the Acquired Fund and the Acquired Fund will be dissolved. The Reorganization is designed to convert the master-feeder structure of the Funds into a multiple class structure.

4. Each of the Acquired Funds has investment objectives, policies, and restrictions that are identical to those of its corresponding Acquiring Fund and to those of its Master Fund. The Acquired Funds and the Acquiring Funds are sold without a front-end or contingent deferred sales charge. The Acquired Funds and the Acquiring Funds impose distribution and service fees that will remain the same after the Reorganization. No sales charge, redemption fee or exchange fee will be

imposed in connection with the Reorganization.

5. The Boards, including a majority of the Independent Trustees, determined that participation in the Reorganization is in the best interests of each Fund, and that the interests of existing shareholders of each Fund will not be diluted as a result of the Reorganization. In assessing the Reorganization, the Boards considered a number of factors, including: (a) The terms and conditions of the Reorganization; (b) the potential administrative benefits and savings that may be achieved from the simplified structure; (c) the tax-free nature of the reorganization; (d) the compatibility of the investment objectives, policies and restrictions among the Funds; and (e) the greater likelihood of asset growth that potentially may result from a more familiar structure and the greater economies of scale that can be achieved from such asset growth, including without limitation lower management fees that take effect at certain asset level breakpoints. The Funds will bear the expenses associated with the Reorganization, as determined by the Board of each Fund.

6. The consummation of the Reorganization is subject to various conditions, including: (a) The approval of the Reorganization by the shareholders of each Acquired Fund; (b) completion of all filings with, and receipt of all necessary approvals from, the Commission; and (c) delivery of legal opinions regarding the federal tax consequences of the Reorganization. The Reorganization Plan for an Acquired Fund may be terminated at any time prior to the Closing Date if the Board of either that Acquired Fund or the Acquiring Fund determines in good faith that the Reorganization is not in the best interests of the shareholders. Applicants agree not to make any changes to the Reorganization Plan that materially affect the application without prior approval of the Commission staff.

7. A prospectus/proxy statement was filed with the Commission on June 26, 2000, and was mailed to the Acquired Fund shareholders beginning the week of August 28, 2000. The shareholders of the Acquired Funds considered and approved the Reorganization on October 31, 2000.<sup>1</sup>

#### Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an

<sup>1</sup> Three of the Acquired Funds did not obtain sufficient votes to approve their respective Reorganization. On November 13, 2000, the Boards of these three Acquired Funds voted to approve the Reorganizations, pursuant to authority granted in the Funds' Declarations of Trust.

affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person, and (d) if the other person is an investment company, any investment adviser of that company. Applicants state that the Funds may be deemed affiliated persons and, thus, the Reorganization may be prohibited by section 17(a).

2. Rule 17a-8 under the Act exempts from the prohibitions of section 17(a) 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 set forth in the rule are satisfied. Applicants state that they may not rely on rule 17a-8 because the Funds may be deemed to be affiliated for reasons other than those set forth in the rule. Applicants state that more than 5% of the outstanding shares of certain Funds is held beneficially or of record by either NBMI, Neuberger Berman, or individual Neuberger Berman officers and/or directors of affiliated entities of such individuals. Applicants also state that certain third parties are the record owners of 5% or more of each of two Funds. Under section 2(a)(3)(A) of the Act, NBMI, Neuberger Berman and these individuals/entities could be deemed "affiliated persons" of the Funds whose shares they own. Applicants further state that certain Funds may be deemed affiliated persons of affiliated persons of one another because each owns 5% or more of the outstanding voting securities of the same Master Fund. Thus, each of the Acquired Funds might be deemed to be an affiliated person of an affiliated person of an Acquiring Fund for reasons other than those set forth in rule 17a-8.

3. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that 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, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

4. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to permit applicants to complete the proposed Reorganization. Applicants submit that the Reorganization satisfies the standards of section 17(b) of the Act. Applicants state that the terms of the proposed Reorganization are fair and reasonable and do not involve overreaching. Applicants also state that the Boards, including all of the Independent Trustees, found that participation in the Reorganization is in the best interests of each Fund and that interests of the existing shareholders will not be diluted as a result of the Reorganization. Applicants further state that the Reorganization will be based on the Funds' relative NAVs.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-30245 Filed 11-27-00; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43574, File No. 4-429]

### Joint Industry Plan; Order Approving an Amendment To the Options Intermarket Linkage Plan to Add the Pacific Exchange, Inc. as a Participant

November 16, 2000.

#### I. Introduction

On September 20, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission") in accordance with section 11A of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 11Aa3-2 thereunder,<sup>2</sup> a proposed amendment to the Options Intermarket Linkage Plan ("Linkage Plan")<sup>3</sup> to become a

<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 240.11Aa3-2.

<sup>3</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage proposed by the American Stock Exchange LLC ("Amex"), the Chicago Board Options Exchange, Inc. ("CBOE"), and the International Securities Exchange LLC ("ISE"). See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).