

for responding to an individual pursuant to an inquiry from that individual or from a third party in his/her behalf.

d. Relevant records may be disclosed to representatives of the General Services Administration or the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

e. Records may be disclosed in response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding and provided that the disclosure would be clearly in the furtherance of the interest of the subject individual.

f. Records may be disclosed in a proceeding before a court or adjudicative body to the extent that they are relevant and necessary to the proceeding and provided that the disclosure would be clearly in the furtherance of the interest of the subject individual.

g. In the event that material in this system indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or by regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, provided that disclosure would be to an agency engaged in functions related to the administration of the Railroad Retirement Act or the Railroad Unemployment Insurance Act or provided that disclosure would be clearly in the furtherance of the interest of the subject individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and paper form.

RETRIEVABILITY:

Name and Social Security number (which acts as the individual's PIN).

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in lockable cabinets in a building with security cameras and 24-hour security guards. Access to electronic records requires the use of restricted passwords.

RETENTION AND DISPOSAL:

These records will be maintained permanently until their official retention period is established.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the Systems Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Data for the system are obtained primarily from the individuals to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01-18907 Filed 7-27-01; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25078; 812-12254]

Barclays Global Fund Advisor, et al.; Notice of Application

July 24, 2001.

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

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit an open-end management investment company, whose portfolios will consist of the component securities of certain

foreign equity securities indices, to issue shares of limited redeemability; permit secondary market transactions in the shares of the portfolios at negotiated prices on a national securities exchange, as defined in section 2(a)(26) of the Act (a "Listing Exchange"); permit certain affiliated persons of the portfolios to deposit securities into, and receive securities from, the portfolios in connection with the purchase and redemption of aggregations of the portfolios' shares; and permit the portfolios to pay redemption proceeds more than seven days after the tender of shares of the portfolios for redemption under certain circumstances.

Applicants: Barclays Global Fund Advisors ("Adviser"), iShares Trust (the "Trust") and SEI Investments Distribution Company ("Distributor").

Filing Dates: The application was filed on September 15, 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 requested relief 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 August 14, 2001 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request 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 Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549-0609. iShares Trust, c/o Susan Mosher, Esq., Investors Bank & Trust Company, 200 Clarendon Street, Boston, MA 02116; Barclays Global Fund Advisors, c/o Joanne T. Medero, Esq., Barclays Global Investors, 45 Fremont Street, San Francisco, CA 94105; and SEI Investments Distribution Company, One Freedom Valley Drive, Oaks, PA 19456, Attn: William Zittelli, Esq.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Branch Chief, at (202) 942-0579 (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 5th Street, NW., Washington, DC 20549-0102 (tel. 202-942-8090).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Delaware business trust. The Trust is organized as a series fund with multiple series.¹ The Trust intends to offer sixteen new series of shares (each a "New Fund"). The Adviser, an investment adviser registered under the Investment Advisers Act of 1940, will serve as investment adviser for each New Fund. The Distributor, a broker-dealer unaffiliated with the Adviser and registered under the Securities Exchange Act of 1934 ("Exchange Act"), will serve as the principal underwriter and distributor of each New Fund's shares.

2. Each New Fund will invest in a portfolio of securities ("Portfolio Securities") generally consisting of the component securities of a specified equity securities index (each, an "Subject Index").² In the future, applicants may offer additional series of the Trust ("Future Funds") based on other foreign equity securities indices. Any Future Fund will (a) be advised by the Adviser or an entity controlled by or under common control with the Adviser and (b) comply with the terms and conditions of the order (references to "New Funds" include "Future Funds"). No entity that creates, compiles, sponsors or maintains a Subject Index will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person of the Trust, the Adviser, any subadviser to a New Fund or the Distributor.

3. The investment objective of each New Fund will be to provide investment results that correspond

generally to the price and yield performance of its relevant Subject Index. It is currently expected that intra-day values of each Subject Index will be disseminated every 15 seconds throughout the trading day. A New Fund will utilize as an investment approach either a replication strategy or a representative sampling strategy. A New Fund utilizing a replication strategy generally will hold most of the component securities of the Subject Index, in the same approximate proportions as the Subject Index, but may not hold all of the underlying securities that comprise a Subject Index in certain instances. This may be the case when, for example, a potential component security is illiquid or when there are practical difficulties or substantial costs involved in holding every security in a Subject Index. A New Fund using a representative sampling strategy seeks to hold a representative sample of the component securities of the Subject Index and will invest in some but not all of the component securities of its Subject Index.³ Applicants anticipate that a New Fund that utilizes the representative sampling technique will not track its Subject Index with the same degree of accuracy as an investment vehicle that invested in every component security of the Subject Index with the same weighing as the Subject Index. Applicants expect that each New Fund will have a tracking error relative to the performance of its respective Subject Index of no more than 5 percent.

4. Shares of a New Fund ("Shares") will be sold in aggregations of 50,000 or more Shares ("Creation Units") as specified in the relevant prospectus. The price of a Creation Unit will range from \$3,000,000 to \$25,000,000. Creation Units may be purchased only by or through a participant that has entered into a participant agreement with the Distributor ("Authorized Participant"). Authorized Participants must be either (a) broker-dealers or other participants in the continuous net settlement system of the National Securities Clearing Corporation, or (b) a Depository Trust Company ("DTC") participant. Creation Units generally will be issued in exchange for an in-kind deposit of securities and cash. A new Fund also may sell Creation Units on a "cash only" basis on limit

circumstances. An investor wishing to make an in-kind purchase of a Creation Unit from a New Fund will have to transfer to the Fund a "Portfolio Deposit" consisting of (a) a portfolio of securities that has been selected by the Adviser to correspond generally to the price and yield performance of the relevant Subject Index ("Deposit Securities"), and (b) a cash payment or credit to equalize any difference between (i) the total aggregate market value per Creation Unit of the Deposit Securities and (ii) the net asset value ("NAV") per Creation Unit of the New Fund (the "Balancing Amount").⁴ An investor purchasing a Creation Unit from a New Fund will be charged a fee ("Transaction Fee") to prevent the dilution of the interests of the remaining shareholders resulting from the New Fund incurring costs in connection with the purchase of Creation Units.⁵ Each New Fund will disclose the maximum Transaction Fees charged by the New Fund in its prospectus and the method of calculating the Transaction Fees in its statement of additional information ("SAI").

5. Orders to purchase Creation Units will be placed with the Distributor who will be responsible for transmitting the orders to the Trust. The Distributor will issue confirmations of acceptance, issue delivery instructions to the Trust to implement the delivery of Creation Units, and maintain records of the orders and confirmations. The Distributor also will be responsible for delivering prospectuses to purchasers of Creation Units.

6. Persons purchasing Creation Units from a New Fund may hold the Shares

¹ The Trust currently has seven series operating under the terms of a prior order. See Barclays Global Fund Advisors, Investment Company Act Release Nos. 24393 (April 17, 2000) (notice) and 24452 (May 12, 2000) (order).

² At least 90% of each New Fund's assets will be invested in the component securities of its Subject Index. A New Fund may also invest up to 10% of its assets in certain futures, option and swap contracts, cash and cash equivalents, as well as certain securities not included in the Subject Index under limited circumstances.

The Subject Indices for the New Funds are the Standard & Poor's ("S&P") Global Consumer Discretionary Index; the S&P Global Consumer Staples Index; the S&P Global Energy Index; the S&P Global Financials Index; the S&P Global Health Care Index; the S&P Global Industries Index; the S&P Global Information Technology Index; the S&P Global Materials Index; the S&P Global Telecommunication Services Index; the S&P Global Utilities Index; the S&P TOPIX 150 Index; the S&P Asia Pacific 100 Index; the S&P Latin America 40 Index; the S&P the S&P Global 1200 Index; the S&P Global 700 Index; and the MSCI EAFE Index.

³ The stocks selected for inclusion in a New Fund by the Adviser will have aggregate investment characteristics (based on market capitalization and industry weightings), fund characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Subject Index taken in its entirety.

⁴ On each business day, the Adviser will make available through the Distributor, immediately prior to the opening of trading on the listing Exchange, the list of the names and the required number of shares of each Deposit Security for each New Fund that offers in-kind purchases of Creation Units. The Portfolio Deposit will be applicable to purchases of Creation Units until a change in the Portfolio Deposit composition is next announced. In addition, each New Fund reserves the right to permit or require the substitution of an amount of cash to be added to the Balancing Amount to replace any Deposit Security that may be unavailable or unavailable in sufficient quantity for delivery to the Trust, or which may be ineligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participants is acting. In addition, the Listing Exchange will disseminate at regular intervals (currently expected to be every 15 seconds) throughout the trading day, via the facilities of the Consolidated Tape Association, an amount representing on a per Share basis, the sum of the Balancing Amount effective through and including the prior business day, plus the current value of the Deposit Securities.

⁵ In situations where a New Fund permits a purchaser to substitute cash for Deposit Securities, the purchaser may be assessed an additional fee to offset the New Fund's brokerage and other transaction costs associated with using cash to purchase the requisite Deposit Securities.

or sell some or all of them in the secondary market. Shares will be listed on the Listing Exchange and traded in the secondary market in the same manner as other equity securities. It is expected that one or more Listing Exchange specialists will be assigned to make a market in Shares. The price of Shares traded on the Listing Exchange will be based on a current bid/offer market, and each Share is expected to have a market value of between \$50 and \$150. Transactions involving the sale of Shares in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs (which could include institutional investors). The Listing Exchange specialist, in providing for a fair and orderly secondary market for Shares, also may purchase Shares for use in its market-making activities on the Listing Exchange. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.⁶ Applicants believe that arbitrageurs and other institutional investors will purchase or redeem Creation Units to take advantage of discrepancies between the Shares' market price and the Shares' underlying NAV. Applicants expect that this arbitrage activity will provide a market "discipline" that will result in a close correspondence between the price at which the Shares trade and their NAV. In other words, applicants do not expect the Shares to trade at a significant premium or discount to their NAV.

8. Shares will not be individually redeemable. Shares will only be redeemable in Creation Unit-size aggregations through each New Fund. To redeem, an investor will have to accumulate enough Shares to constitute a Creation Unit. An investor redeeming a Creation Unit generally will receive (a) a portfolio of Portfolio Securities in effect on the date the request for redemption is made ("Redemption Securities"), which may not be identical to the Deposit Securities applicable to the purchase of Creation Units, and (b) a "Cash Redemption Payment," consisting of an amount calculated in the same manner as the Balancing Amount, although the actual amounts may differ if the Redemption Securities are not identical to the Deposit Securities. An investor may receive the cash equivalent of a Redemption

Security in certain circumstances, such as where a redeeming entity is restrained by regulation or policy from transacting in the Redemption Security. A New Fund may redeem Creation Units in cash in limited circumstances, such as when it is not possible to effect deliveries of Redemption Securities in the applicable jurisdiction.⁷ A redeeming investor will pay a Transaction Fee to offset the Fund's transaction costs, whether the redemption proceeds are in-kind or cash. An additional variable charge, expressed as a percentage of the redemption proceeds, will be made for cash redemptions.

9. Because each New Fund will redeem Creation Units in-kind, a New Fund will not have to maintain cash reserves for redemptions. This will allow the assets of each New Fund to be committed as fully as possible to tracking its Subject Index. Accordingly, applicants state that each New Fund will be able to track its Subject Index more closely than certain other investment products that must allocate a greater portion of their assets for cash redemptions.

10. Applicants state that no New Fund will be marketed or otherwise held out as an "open-end investment company" or a "mutual fund." Rather, the designation of the New Fund in all marketing materials will be limited to the terms "exchange-traded fund," "investment company," "fund," or "trust" without reference to an "open-end fund" or "mutual fund," except to contrast the New Funds with a conventional open-end investment company. Any marketing materials that describe the purchase or sale of Creation units, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and that owners of Shares may tender Shares for redemption to the New Funds in Creation Unit aggregations only. The same type of disclosure will be provided in each New Fund's prospectus, SAI, and all reports to shareholders.⁸ The

⁷ Applicants note that certain holders of Shares of a particular New Fund may be subject to unfavorable tax treatment if they are entitled to receive in-kind redemption proceeds. The Trust may adopt a policy with respect to such New Fund that such holders of Shares may redeem Creation Unit Aggregations solely for cash.

⁸ Applicants state that persons purchasing Creation Units will be cautioned in the prospectus or SAI that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act of 1933 ("Securities Act"). For example, a broker-dealer firm or its client may be deemed a statutory underwriter if it takes Creation Units after placing an order with the Distributor, breaks them down into the constituent

Fund will provide copies of its annual and semi-annual shareholder reports to DTC participants for distribution to beneficial holders of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (a)(2) of the Act. Applicants request relief for the New Funds as well as any Future Funds. Any Future Funds relying on any order granted pursuant to this application will comply with the terms and conditions in the application.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction, or any class of persons, securities, or 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.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an "open-end company" as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order under section 6(c) of the Act that would permit the Trust to register each New Fund as a series of an open-end management investment company and issue Shares that are redeemable in Creation Units. Applicants state that investors may purchase shares in Creation units from

Shares, and sells Shares directly to its customers; or if it chooses to couple the creation of a supply of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. The prospectus or SAI will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. The prospectus or SAI also will state that broker-dealer firms should also note that dealers who are not "underwriters" but are participating in a distribution (as contrasted to ordinary secondary trading transactions), and thus dealing with Shares that are part of an "unsold allotment" within the meaning of section 4(c)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

⁶ Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Shares. Records reflecting the beneficial owners of Shares will be maintained by DTC or its participants.

each New Fund and redeem Creation Units through each New Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors generally should be able to sell Shares in the secondary market at approximately their NAV.

Section 22(d) of the Act and Rule 22c-1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is being currently offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. rule 22c-1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) and rule 22c-1. Applicants request an exemption under section 6(c) of the Act from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c-1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c-1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent just discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state (a) that secondary market trading in Shares would not cause dilution for owners of Shares because such transactions do not directly involve New Fund assets, and (b) to the extent different prices exist during a given trading day, or from day to day, these variances will occur as a result of third-party market forces, such as supply and demand. Therefore,

applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that local market delivery cycles for transferring Redemption Securities to redeeming investors, together with local market holiday schedules, will require a delivery process in excess of seven calendar days for certain New Funds in certain circumstances during the calendar year. Applicants request relief under section 6(c) from section 22(e) so that the New Funds may pay redemption proceeds up to eleven calendar days after the tender of Shares for redemption. Except as otherwise subsequently disclosed in the prospectus or SAI for the relevant New Fund, applicants expect, however, that these New Funds will be able to deliver redemption proceeds within seven days at all other times.⁹ With respect to Future Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances exist similar to those described herein.

8. The principal reasons for the requested exemption is that settlement of redemptions for the New Funds is contingent not only on the settlement cycle of the United States market but also on the currently practicable delivery cycles in the local markets for the underlying foreign securities of each New Fund. Applicants believe that the New Funds will be able to comply with the delivery requirements of section 22(e) except where the holiday schedule applicable to the specific foreign market will not permit delivery of redemption proceeds within seven calendar days.

9. Applicants state that section 22(e) of the Act was designed to prevent unreasonable, undisclosed, and unforeseen delays in the payment of redemption proceeds. Applicants assert that their requested relief will not lead

to the problems section 22(e) was designed to prevent. Delays in the payment of Shares redemption proceeds will occur principally due to local holidays. Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each New Fund. Applicants state that the local holidays relevant to each New Fund as in effect in a given year will be listed in the series' prospectus or SAI or both, and these disclosure documents will identify instances in such year when, due to such holidays, more than seven days will be needed to deliver redemption proceeds.

Section 17(a) of the Act

10. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person, from selling any security to or purchasing any security from the company. Because purchases and redemptions of Creation Units may be "in-kind" rather than cash transactions, section 17(a) may prohibit affiliated persons of a New Fund from purchasing or redeeming Creation Units in-kind. Because the definition of "affiliated person" of another person in section 2(a)(3)(A) of the Act includes any person owning five percent or more of an issuer's outstanding voting securities, every purchaser of a Creation Unit will be affiliated with the New Fund so long as fewer than twenty Creation Units are in existence. In addition, any person owning more than 25% of the Shares of a New Fund may be deemed an affiliated person under section 2(a)(3)(C) of the Act. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b), to permit these affiliated persons of the New Fund to purchase and redeem Creation Units.

11. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Applicants contend that no useful purpose would be served by prohibiting persons with the types of affiliations described above from purchasing or redeeming Creation Units. The deposit procedure for in-kind purchases and redemptions will be the

⁹ Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6-1 under the Exchange Act. Rule 15c6-1 requires that most securities transactions be settled within three business days of the trade date. Release No. IC-23860, 1999 WL 3621843 (S.E.C.).

same for all purchases and redemptions, and Deposit Securities and Redemption Securities will be valued under the same objective standards applied to valuing Portfolio Securities. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for an affiliated person of a New Fund to effect a transaction detrimental to the other holders of Shares. Applicants also believe that in-kind purchases and redemptions will not result in abusive self-dealing or overreaching by affiliated persons of the New Fund.

Applicants' Conditions

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

1. Applicants will not register a Future Fund by means of filing a post-effective amendment to the Trust's registration statement or by any other means, unless (a) applicants have requested and received with respect to such Future Fund, either exemptive relief from the Commission or a no-action letter from the Division of Investment Management of the Commission or (b) the Future Fund will be listed on a national securities exchange without the need for a filing pursuant to rule 19b-4 under the Exchange Act.

2. Each New Fund's prospectus will clearly disclose that, for purposes of the Act, Shares are issued by the New Fund and that the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

3. As long as each New Fund operates in reliance on the requested order, the Shares of such New Fund will be listed on a national securities exchange.

4. Neither the Trust nor any New Fund will be advertised or marketed as an open-end fund or mutual fund. Each new New Fund's prospectus will prominently disclose that Shares are not individually redeemable shares and will disclose that the owners of Shares may acquire those Shares from the New Fund and tender those shares for redemption to the New Fund in Creation Units only. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the New Fund and tender those Shares for redemption to the New Fund in Creation Units only.

5. The web site for the Trust, which will be publicly accessible at no charge, will contain the following information

on a per Share basis, for each New Fund: (a) The prior business day's NAV and the reported closing price, and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

6. The prospectus and annual report for each Fund will also include: (a) The information listed in condition 5(b), (i) in the case of the prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Share basis for one, five and ten year periods (or for the life of the New Fund), (i) the cumulative total return and the average annual total return based on NAV and market price, and (ii) the cumulative total return of the element Subject Index.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-18941 Filed 7-27-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25077; 812-12548]

Professionally Managed Portfolios, et al.; Notice of Application

July 24, 2001.

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

ACTION: Notice of an application for an exemption under section 6(c) of the Investment.

Company Act of 1940 (the "Act") from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the implementation, without prior shareholder approval, of a new investment advisory agreement ("New Advisory Agreement") for a period beginning on June 17, 2001, and ending on the earlier of (a) the date the New Advisory Agreement is approved or disapproved by the shareholders, or October 17, 2001 (the "Interim Period").

APPLICANTS: Professionally Managed Portfolios (the "Trust"), and Turner Investment Partners, Inc. ("Turner").

FILING DATES: The application was filed on June 13, 2001 and amended on July 2, 2001 and July 23, 2001.

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 August 17, 2001, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609. The Trust, 915 Broadway, New York, NY 10010. Turner, 1235 Westlakes Drive, Suite 350, Berwyn, PA 19312.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942-0582, 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, NW., Washington, DC 20549-0102 (tel. 202-942-8090).

Applicants' Representations

1. The Trust is a Massachusetts business trust registered as an open-end management investment company under the Act. Titan Financial Services Fund (the "Fund") is a series of the Trust. Titan Investment Advisers, L.L.C. (the "Adviser") is an investment adviser registered under the Investment Advisers Act of 1940 (the "Advisers Act"). Prior to January 17, 2001, the Adviser managed the assets of the Fund pursuant to an investment advisory agreement (the "Former Advisory Agreement"). Mr. Gilbert R. Giordano, President and majority stockholder of the Adviser, had primary responsibility for the management of the Fund.

2. On January 17, 2001, Mr. Giordano died unexpectedly, resulting in an assignment of the Former Advisory Agreement. On January 25, 2001, the Trust's board of trustees ("Board") approved a new investment advisory agreement with the Adviser (the "Interim Advisory Agreement") and