

Wednesday, September 5, 2001

- The discussion of Reconciliation of ACRS Comments and Recommendations has been rescheduled to Wednesday, September 5, 2001, between 1:00 p.m. and 1:30 p.m.

- The discussion of the Thermal-Hydraulics Phenomena Subcommittee has been rescheduled to Wednesday, September 5, 2001, between 1:30 p.m. and 2:00 p.m.

- The discussion time of the Reactor Oversight Process has been rescheduled between 2:30 p.m. and 4:00 p.m.

- The preparation of ACRS reports will start at 4:00 p.m. instead of 2:50 p.m. as previously announced.

All other items for September 5, 2001 meeting remain the same as previously announced in the **Federal Register** on Thursday, August 16, 2001 (66 FR 43035).

Thursday, September 6, 2001

- The discussion of Peer Review of PRA Certification Process has been rescheduled to Thursday, September 6, 2001, between 8:35 and 9:00 a.m.

All other items for September 6, 2001 meeting remain the same as previously announced in the **Federal Register** on Thursday, August 16, 2001 (66 FR 43035).

**FOR FURTHER INFORMATION CONTACT:** Dr. Sher Bahadur (telephone 301-415-0138), between 7:30 a.m. and 4:15 p.m., EDT.

Dated: August 17, 2001.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 01-21285 Filed 8-22-01; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### Termination of Uranium Milling Licenses in Agreement States; Opportunity to Comment on Draft Revision of NRC Procedure

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Request for comment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is announcing the availability of a draft revision of the Office of State and Tribal Programs (STP) Procedure SA-900: Termination of Uranium Milling Licenses in Agreement States for review and comment. The procedure describes the NRC review process for making determinations that all applicable standards and requirements have been met before Agreement State uranium

milling license termination. Stakeholder's comments are requested on the draft revised procedure before the completion of the final procedure.

**DATES:** The comment period expires September 24, 2001. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Comments may be submitted either electronically or via U.S. mail. Submit written comments to: Chief, Rules and Directives Branch, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Comments may be submitted by electronic mail to [mtl@NRC.GOV](mailto:mtl@NRC.GOV).

The procedure is available at the STP Web site at "U Mill License Termination," <http://www.hsrdr.ornl.gov/nrc/Umill.htm> on the tool bar. A single paper copy of the procedure may be obtained from the For Further Information Contact.

**FOR FURTHER INFORMATION CONTACT:** Kevin Hsueh, Mail Stop: O-3C10, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-2598.

**SUPPLEMENTARY INFORMATION:** On March 29, 2001 (66 FR 17206), the NRC published a document in the **Federal Register** (FR) announcing the formation of a working group composed of representatives from the NRC and Agreement States. The working group was tasked to identify areas that need improvements in the NRC review process and propose a draft revised procedure that addresses issues identified by the working group and stakeholders.

The working group, consisting of five representatives from the States, three NRC representatives and an NRC resource representative, began work in April 2001. Over the past four months, the working group has held three teleconference calls and one face-to-face meeting with stakeholders. Comments and input received from the working group, stakeholders and NRC staff have been considered and reflected in the procedure.

Before finalizing its task, the working group would like to make the procedure available to NRC offices, Agreement States and stakeholders for review and comment. The procedure is available at the STP Web site at "U Mill License Termination," <http://www.hsrdr.ornl.gov/nrc/Umill.htm> on the tool bar. The last working group teleconference call is scheduled in late September. Comments received by the

working group will be reviewed and discussed, and incorporated into the procedure, if accepted. The working group is scheduled to complete the project by October 2001. The final STP SA-900 procedure is expected to be issued in November 2001.

Dated at Rockville, Maryland this 17th day of August, 2001.

For the Nuclear Regulatory Commission.

**Paul H. Lohaus,**

*Director, Office of State and Tribal Programs.*

[FR Doc. 01-21289 Filed 8-22-01; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25115; 812-11198]

### Investec Ernst & Company et al.; Notice of Application

August 17, 2001.

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

**ACTION:** Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(3) of the Act.

*Summary of Application:* The requested order would permit certain series of unit investment trusts to invest up to 10.5%, 14.5% or 34.5% of their respective total assets in securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities ("Securities Related Issuers").

*Applicants:* Investec Ernest & Company ("Sponsor"); The Pinnacle Family of Trusts, Schwab Trusts, Equity Securities Trust, and EST Symphony Trust ("Trusts"); all presently outstanding and subsequently issued series of the Trusts ("Series"); and all future unit investment trusts ("UITs") containing qualified securities and sponsored or co-sponsored by the Sponsor or a sponsor controlling, controlled by, or under common control, within the meaning of section 2(a)(9) of the Act, with the Sponsor (these UITs are included in the term Trusts and their series included in the term Series).

*Filing Dates:* The application was filed on June 26, 1998 and amended on December 8, 1998 and August 15, 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 September 11, 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. Applicants, Investec Ernst & Company, One Battery Park Plaza, 7th Floor, New York, NY 10004.

**FOR FURTHER INFORMATION CONTACT:** Julia Kim Gilmer, Senior Counsel, at (202) 942-0528, or Nadya B. Roytblat, Assistant Director, 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 (tel. (202) 942-8090).

#### Applicants' Representations

1. Each Trust is a UIT registered under the Act and consists of various Series. The Sponsor is a sponsor or co-sponsor of the Series. The investment objective of certain Series is to seek a greater total return than the stocks comprising the Dow Jones Industrial Average ("DJIA," and the Series, "Dow Series"). Certain of the Dow Series ("Top Ten Series") will invest approximately 10% of the value of its total assets in each of the ten common stocks in the DJIA that have the highest dividend yields (the "Top Ten"). In no event will a Top Ten Series invest more than 10.5% of the value of its total assets in the common stock of a Securities Related Issuer in the Top Ten. Certain other Dow Series ("Triple Strategy Series") invest 20% of its assets in the Top Ten. 60% of its assets in the five lowest priced stocks of the Top Ten (the "Focus Five"), and 20% in the single stock which is the second lowest priced stock of the Focus Five (the "Penultimate Pick"). A Triple Strategy Series will invest no more than 10.5% with respect to the Top Ten, 14.5% with respect to the Focus Five, or 34.5% with respect to the Penultimate Pick, if the Penultimate Pick is itself a Securities Related Issuer, of the value of its total assets in a Securities Related Issuer.

2. The DJIA comprises 30 widely-held common stocks listed on the New York

Stock Exchange which are chosen by the editors of The Wall Street Journal. The DJIA is the property of Dow Jones & Company, Inc., which is not affiliated with any Series, the Sponsor, or any co-sponsor and does not participate in any way in the creation of any Series or the selection of its stocks. The securities deposited in each Dow Series will be chosen solely according to the formula described above. The sponsor will not have any discretion as to which securities are purchased. Sales of securities in the Dow Series' portfolios will be made in connection with redemptions and at termination of the Trust on a date specified a year in advance. The sponsor does not have discretion as to when the securities will be sold except in extremely limited circumstances, such as default by the issuer in the payment of amounts due on a security or the institution of certain legal proceedings against the issuer.

#### Applicants' Legal Analysis

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

2. Section 6(c) of the Act provides that the SEC may exempt a person from any provision of the Act or any rule under the Act, if and 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 policy and provisions of the Act.

3. Applicants request an exemption under section 6(c) from section 12(d)(3) to permit a Top Ten Series to invest up to approximately 10%, but in no event more than 10.5%, of the value of its total assets in a Securities Related Issuer in the Top Ten, and to permit a Triple Strategy Series to invest up to approximately 10%, but in no event more than 10.5%, in a Securities Related Issuer in the Top Ten, approximately 14%, but in no event more than 14.5%, of the value of its total assets in a Securities Related Issuer in the Focus Five, and approximately 34%, but in no event more than 34.5%, of the value of its total assets in the

Penultimate Pick, if the Penultimate Pick is itself a Securities Related Issuer. Each of the Top Ten Series and Triple Strategy Series will comply with all of the conditions of rule 12d3-1, except the condition prohibiting an investment company from investing more than 5% of the value of its total assets in securities of a Securities Related Issuer.

4. Applicants state that section 12(d)(3) was designed to prevent certain potential conflicts of interest and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict of interest could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling investment company shares, rather than solely on investment merit. Applicants state that this concern does not arise in connection with the Top Ten Series and the Triple Strategy Series because neither the Series nor the sponsor has discretion in choosing the portfolio securities or the amount purchased. Applicants also state that the effect of a Series' purchase on the stock of a Securities Related Issuer would be *de minimis* because the common stocks represented in the DJIA are widely held and have active markets.

5. Applicants state that another potential conflict of interest could occur if an investment company directed brokerage to a broker-dealer in which the investment company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicants agree, as a condition to the requested order, that no company held in a Series' portfolio nor any affiliated person of that company will act as a broker for any Series in the purchase or sale of any security for its portfolio.

#### Applicants' Condition

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

No company held in the Series' portfolios nor any affiliated person of that company will act as a broker for any Series in the purchase or sale of any securities for the Series' portfolios.

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

**Jonathan G. Katz,**  
Secretary.

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