

periods compared to the Scudder SVS Government Securities Portfolio.

38. The AFIS International Fund has a lower expense ratio and management fee and is much larger than the Templeton Foreign Securities Fund. The AFIS International Fund also has performed better for two time periods and lower for four time periods compared to the Templeton Foreign Securities Fund.

39. The AFIS Growth Fund has a lower expense ratio and management fee and is much larger than the MFS Research Series. The AFIS Growth Fund also has performed better for five time periods and lower for one time period compared to the MFS Research Series.

40. The AFIS International Fund has a lower expense ratio and management fee and is much larger than the Newport Tiger Fund. The AFIS International Fund also has performed better for four time periods and lower for two time periods compared to the Newport Tiger Fund.

41. The Scudder VIT Small Cap Index Fund has a lower expense ratio and management fee and is smaller than the Scudder SVS Small Cap Growth Portfolio. The Scudder VIT Small Cap Index Fund also has performed better for one time period and has lower performance for three time periods compared to the Scudder SVS Small Cap Growth Portfolio.

Conclusion

Applicants submit that, for all the reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-15250 Filed 6-17-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of June 17, 2002:

Closed Meetings will be held on Tuesday, June 18, 2002, at 10 a.m., and Wednesday, June 19, 2002, at 10 a.m., and an Open Meeting will be held on Thursday, June 20, 2002, at 10 a.m., in

Room 1C30, the William O. Douglas Room.

Commissioner Glassman, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matter of the Closed Meeting scheduled for Tuesday, June 18, 2002, will be:

Formal orders of investigation; Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

The subject matter of the Closed Meeting scheduled for Wednesday, June 19, 2002, will be:

Formal orders of investigation; Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and an Order compelling testimony.

The subject matter of the Open Meeting scheduled for Thursday, June 20, 2002, will be:

1. The Commission will consider whether to adopt technical amendments to Rules 3a-1, 3a-2, 3a-3, 3a-5, 3a-6, 6c-6, 6e-2, 6e-3(T), 20b, and 30f-1 under the Investment Company Act of 1940 and Rules 16a-2 and 16a-3 under the Securities Exchange Act of 1934; as well as whether to adopt technical amendments to Forms 3, 4, and 5, and the references to these forms contained in the Code of Federal Regulations. The amendments will correct statutory references currently contained in the rules and the forms.

2. The Commission will consider whether to issue an interpretive release regarding the application of certain provisions of the federal securities laws to trading in security futures products. In light of the framework established by the Commodity Futures Modernization Act for the joint regulation of security futures products by the Securities and Exchange Commission and the Commodity Futures Trading Commission, the interpretive release is designed to provide guidance to securities industry and futures industry participants in applying certain provisions of the federal securities laws to trading in security futures products. This

release responds to many of the interpretive issues identified by industry participants. Some questions pertain to the status and treatment of the instruments themselves under the Securities Act of 1933 and the Securities Exchange Act of 1934. Other questions pertain to the application of trading rules and other rules that apply to market intermediaries.

3. The Commission will consider whether to propose rule amendments and new rules designed to enhance the quality of financial information through improving oversight of the auditing process. The proposed rules would create the framework for a new private sector regulatory scheme for the accountants that audit or review financial statements filed with the Commission. The proposed rules also would reform oversight and improve the accountability of auditors of public companies, thereby enhancing the reliability and integrity of the financial reporting process. Under the proposed framework, a new organization, among other things, would (1) conduct reviews of accounting firms' quality controls, (2) discipline accountants for unethical or incompetent conduct, or other violations of professional standards, and (3) either set or rely on designated private sector bodies to set auditing, quality control and ethics standards.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: June 13, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-15420 Filed 6-14-02; 11:58 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46069; File No. S7-12-01]

Notice of Application of Evangelical Christian Credit Union for Exemptive Relief Under Sections 15 and 36 of the Exchange Act and Request for Comment

June 12, 2002.

The Commission has received a request from a federally insured credit union, Evangelical Christian Credit Union ("ECCU"), for an exemption pursuant to Sections 15(a)(2) and 36(a) of the Securities Exchange Act of 1934 ("Exchange Act"). ECCU requests relief from the broker-dealer registration requirements of Section 15(a)(1) of the Exchange Act and the reporting and other requirements of the Exchange Act applicable to broker-dealers so that it might offer sweep account services to its members without registering as a broker-dealer. In order to provide an

opportunity for interested persons to comment, the Commission is publishing this notice and request for comment pursuant to Rule 0-12 under the Exchange Act. In light of informal requests for similar relief for other credit unions, the Commission is also requesting comment on whether all credit unions should be permitted to offer sweep accounts to members, including individuals, on the same terms as requested by ECCU.

Background

Section 15(a)(1) of the Exchange Act generally requires any broker or dealer who makes use of the mails or any instrumentality of interstate commerce to effect transactions in, or induce the purchase or sale of, any security to register with the Commission. Section 3(a)(4)(A) of the Exchange Act defines a "broker" as "any person engaged in the business of effecting transactions in securities for the account of others." Sweeping deposit account balances into mutual funds constitutes "effecting transactions in securities," and an entity engaging in such activity on an ongoing basis for compensation would be "in the business of" securities brokerage. Absent an exception or exemption, the entity would be required to register as a broker with the Commission.

Section 15(a)(2) of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt from the broker-dealer registration requirements of Section 15(a)(1) any broker or dealer or class of broker or dealer, by rule or order, as it considers consistent with the public interest and the protection of investors.¹ Similarly, but more broadly, Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, by rule, regulation, or order, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.²

ECCU's application relates to the May 11, 2001 interim final rules³ defining certain terms used in, and granting additional exemptions from, the functional exceptions from the definitions of "broker" and "dealer"

added to the Exchange Act by the Gramm-Leach-Bliley Act⁴ ("GLBA"). To allow banks sufficient time to implement changes necessary to comply with the interim final rules, and to allow for careful consideration of amendments to those rules, banks and thrifts have a temporary, general exemption from broker-dealer registration.⁵ Once the Commission adopts amendments to the interim final rules and the rules become effective, banks and thrifts will have a more specific set of exceptions and exemptions from registration. Banks and thrifts acting as brokers will not be considered brokers only if they meet one of eleven product or transaction-specific exceptions of the GLBA or are otherwise exempt from the definition by Commission rules.

One of functional broker exceptions is for sweeping funds into no-load money market funds, as provided in new Section 3(a)(4)(B)(v) of the Exchange Act.⁶ This section provides that a bank shall not be considered to be a broker because it "effects transactions as part of a program for the investment or reinvestment of deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund."⁷ However, like the other GLBA functional exceptions for banks, the sweep account exception by its terms is available only to "banks" as defined in Exchange Act Section 3(a)(6). Credit unions are not banks within the meaning of this definition.⁸ Therefore, without an exemption, credit unions generally would be the only depository institutions unable to sweep deposit account balances into no-load money market funds and ECCU, specifically,

would not be permitted to do so absent registration as a broker-dealer.

Summary of the Application

ECCU proposes to offer its member institutions a sweep account service that would involve linking a deposit account with an omnibus account maintained with a registered broker-dealer and representing the interests of ECCU member institutions in one or more no-load money market mutual funds. Under the proposed arrangement, funds would automatically transfer back and forth between the two accounts, maintaining a specified minimum balance in the deposit account and automatically investing deposits above a specified target amount in money market mutual funds. In connection with the arrangement, ECCU proposes to engage in limited shareholder servicing and support activities, and limited promotional activities.

The funds into which ECCU proposes to sweep deposits pay the fund sponsor a management fee of 0.20% of fund net asset value annually and reimburse the fund sponsor for operating expenses estimated at approximately 0.10% of fund net asset value annually. ECCU represents that it would not receive from the fund sponsor any portion of the sponsor's management fee or operating expenses, but that in consideration of its shareholder servicing and support activities it would receive an administrative services fee not to exceed 0.25% annually of the net asset value of shares invested in the funds through ECCU's omnibus account. ECCU also proposes to charge each member institution a flat, monthly, cash management service fee for the sweep service. In addition, ECCU proposes to charge its member institutions a fee not to exceed 1.00% annually on balances maintained in the funds through their sweep accounts. ECCU represents that it would obtain from the sponsor of the funds written confirmation that the funds made available through ECCU's sweep program qualify as no-load money market funds under the definitions of "money market fund" and "no-load" in Rules 3b-17(e) and 3b-17(f) under the Exchange Act.

In its application, ECCU states that the primary purpose of its proposed arrangement is to meet the unique needs of its member institutions, over 96% of which are non-profit organizations under Section 501(c)(3) of the Internal Revenue Code, and many of which are funded by cyclical donor cash flows. ECCU further states that it would offer its proposed sweep account services only to its member institutions and not to individuals. ECCU has waived the

⁴ Pub. L. 106-102, 106th Cong., 1st Sess., 113 Stat. 1338 (Nov. 12, 1999).

⁵ At the time it issued the interim final rules, the Commission granted banks, savings associations, and savings banks a temporary, general exemption from the definitions of the terms "broker" and "dealer" under the Exchange Act. See Rules 15a-7 and 15a-9 in the interim final rules release, *supra* note 1. Soon after, the Commission extended this exemption until May 12, 2002. See Exchange Act Release No. 44570 (July 18, 2001) (File No. S7-12-01), available at <<http://www.sec.gov/rules/other/34-44570.htm>>. Recently, the Commission further extended the exemption with respect to the definition of "broker" until May 12, 2003, and with respect to the definition of "dealer" until November 12, 2002. See Exchange Act Release No. 45897 (May 8, 2002) (File No. S7-12-01), available at <<http://www.sec.gov/rules/other/34-45897.htm>>.

⁶ See 15 U.S.C. 78c(a)(4)(B)(v).

⁷ *Id.*

⁸ Thrifts also are not banks. However, Rule 15a-9 under the Exchange Act, which is currently applicable, generally exempts thrifts from the definition of the term "broker" on the same terms and conditions as banks.

¹ See 15 U.S.C. 78o(a)(2).

² See 15 U.S.C. 78mm.

³ See Exchange Act Release No. 44291 (May 11, 2001), 66 FR 27760 (May 18, 2001), available at <<http://www.sec.gov/rules/final/34-44291.htm>>.

request for confidential treatment included in its application, and the complete application will be available on the Commission's website (<http://www.sec.gov>) and available for a fee at the Commission's Public Reference Branch, at (202) 942-8090, 450 Fifth Street, NW., Washington, DC 20549-0102.

Request for Comment

First, the Commission invites any person to submit comments or other information that relates to the relief requested in ECCU's application, including whether the application should be granted.

Second, the Commission requests comment on whether relief such as requested by ECCU should be extended to all credit unions with deposits insured by the National Credit Union Share Insurance Fund to permit all federally insured credit unions to offer sweep account services on the same terms and conditions available to banks and thrifts. In particular, the Commission requests comment on the significance of the scope of the relief requested in ECCU's application being limited to sweep arrangements for institutions, and the significance of the non-profit status of almost all of those institutions. In this connection, the Commission would appreciate receiving information relating to whether any exemption permitting credit unions to offer sweep account services on the same terms and conditions available to banks and thrifts:

(a) Should be limited to the ECCU application until additional experience is gained with other applicants;

(b) Should be available only to some category or categories of credit unions such as, for example, federally insured credit unions;

(c) Should be available with respect to all credit union members or only some category or categories of credit union members such as, for example, individuals or non-profit organizations;

(d) Would benefit credit union members and customers of banks and thrifts by enhancing the ability of credit unions to compete with banks and thrifts by offering new services;

(e) Would raise investor protection concerns; or

(f) Would unfairly disadvantage banks, thrifts, broker-dealers, or other financial institutions in light of the ability of credit unions to offer particular products or services that other institutions might not be able to offer such as, for example, interest-bearing business checking accounts.

Third, the Commission requests comment on whether such relief would

raise issues that should be considered in connection with amendments to the May 11, 2001 interim final rules implementing the functional regulation exceptions from broker-dealer registration of the GLBA. The Commission notes that when it issued the interim final rules, it requested comment on whether the exceptions and exemptions from the definitions of "broker" and "dealer" applicable to banks should be extended to other entities.⁹

Comments should be received on or before July 18, 2002. For further information, contact Catherine McGuire, Chief Counsel, Lourdes Gonzalez, Assistant Chief Counsel, or Brice Prince, Special Counsel, at (202) 942-0073, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-1001.

Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comments should refer to File No. S7-12-01, and this file number should be included in the subject line if email is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549-0102. Electronically submitted comment letters will be posted on the Commission's website (<http://www.sec.gov>).¹⁰

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-15290 Filed 6-17-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46061; File No. SR-Amex-2002-54]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Amend Amex Rules 26 and 27 To Allow Upstairs Member Firm Representatives To Participate in Meetings of the Performance Committee by Telephone, and To Reduce the Number of Specialists on the List From Which Listed Companies May Select Their Specialist

June 11, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 5, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Amex Rule 26 to allow upstairs member firm representatives to participate in meetings of the Performance Committee ("Committee") by telephone, and to amend Amex Rule 27 to reduce to five the number of specialists on the list from which listed companies may select their specialist. The text of the proposed rule change is below. Proposed additions are in italics; proposed deletions are in brackets.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The Exchange provided the Commission with notice of its intention to file the proposed rule change by letter dated May 29, 2002 from Bill Floyd-Jones, Assistant General Counsel, Amex, to Katherine England, Assistant Director, Division of Market Regulation, Commission. Rule 19b-4(f)(6) under the Act requires five business days notice, however. The Commission has decided to waive the 5-day pre-filing notice requirement. The Amex asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

⁹ See Exchange Act Release No. 44291 (May 11, 2001), 66 FR 27760, 27788 (May 18, 2001), available at <<http://www.sec.gov/rules/final/34-44291.htm>>.

¹⁰ We do not edit personal, identifying information, such as names or e-mail addresses, from electronic submissions. Submit only information you wish to make publicly available.