

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, fax (202) 418-3251, or e-mail [mbtoomey@opm.gov](mailto:mbtoomey@opm.gov). Please include a mailing address with your request.

Office of Personnel Management.

**Dan G. Blair,**

*Acting Director.*

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BILLING CODE 6325-39-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26871; 812-12946]

### Touchstone Investment Trust, et al.; Notice of Application

May 18, 2005.

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

**ACTION:** Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 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 APPLICATION:** Applicants request an order to permit certain registered open-end management investment companies to invest uninvested cash and cash collateral in one or more affiliated money market funds in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

**APPLICANTS:** Touchstone Investment Trust ("TINT"), Touchstone Strategic Trust ("TST"), Touchstone Tax-Free Trust ("TTFT"), Touchstone Variable Series Trust ("TVST") (each, a "Trust," and collectively, the "Trusts"), on behalf of all of the existing and future series of each Trust (each, a "Fund," and collectively, the "Funds"), Touchstone Advisors, Inc. ("Touchstone Advisors"), and any other registered open-end management investment company or series thereof that is now or in the future advised by Touchstone Advisors or a person controlling, controlled by, or under common control with Touchstone Advisors (each, including Touchstone Advisors, an "Advisor") (each such investment company or series thereof included in the term "Funds").

**FILING DATES:** The application was filed on March 20, 2003, and was amended on May 13, 2005.

**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 June 13, 2005, 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 may request notification of a hearing by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, 221 East Fourth Street, Suite 300, Cincinnati, Ohio 45202-4311.

**FOR FURTHER INFORMATION CONTACT:** Marc R. Ponchione, Senior Counsel, at (202) 551-6874, or Nadya B. Roytblat, Assistant Director, at (202) 551-6821 (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 Desk, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel. 202-551-5850).

### Applicants' Representations

1. The Trusts are Massachusetts business trusts that are registered under the Act as open-end management investment companies. Each Trust is comprised of a number of Funds, each with its own investment objectives and policies.<sup>1</sup>

2. Touchstone Advisors, an Ohio corporation and an investment adviser registered under the Advisers Act of 1940, as amended ("Advisers Act"), is the investment adviser to each of the Funds. Touchstone Advisors has engaged sub-advisors ("Sub-Advisors") to handle the day-to-day portfolio management of each of the Funds.<sup>2</sup> Each Sub-Advisor has discretionary authority to invest all of a particular Fund's Cash

Balances, as defined below, allocated to it.

3. TINT, TTFT, and TVST each have one or more money market Funds that comply with rule 2a-7 under the Act ("Money Market Funds"). The Funds that are not Money Market Funds (the "Non-Money Market Funds") invest in a variety of debt and/or equity securities in accordance with their investment objectives and policies.

4. Applicants state that each Non-Money Market Fund has, or may be expected to have cash that has not been invested in portfolio securities ("Uninvested Cash"). Uninvested Cash may result from a variety of sources, including, but not limited to, dividends or interest received from portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions and dividend payments, and new monies received from investors. The Funds may implement a securities lending program in the future under which the Funds will lend portfolio securities to registered broker-dealers or other institutional investors. The loans will be continuously secured by collateral, which may include cash ("Cash Collateral," and together with Uninvested Cash, "Cash Balances"), equal at all times in value to at least the market value of the securities loaned. Any investment of Cash Collateral will comply with all present and future applicable Commission or staff positions regarding securities lending arrangements.

5. Applicants request an order to permit the Non-Money Market Funds to use their Cash Balances to purchase and redeem shares of the Money Market Funds, and the Money Market Funds to sell their shares to, and redeem their shares as requested by, the Non-Money Market Funds. Investment of Cash Balances in shares of the Money Market Funds will be made only if permitted by the Non-Money Market Fund's investment restrictions and to the extent consistent with each Non-Money Market 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 that no registered investment company may acquire the securities of another investment company if the

<sup>1</sup> All existing registered investment companies that currently intend to rely on the requested order are named as applicants, and any other existing or future Fund that subsequently relies on the order will comply with the terms and conditions in the application.

<sup>2</sup> Each Advisor and each Sub-Advisor is or will be registered under the Advisers Act.

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 assets. Section 12(d)(1)(B) of the Act provides, in pertinent part, 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 outstanding voting stock, or if the sale will cause more than 10% of the acquired company to be owned by investment companies.

2. Section 12(d)(1)(J) 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, the exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(1)(J) of the Act from the limitations of sections 12(d)(1)(A) and (B) to permit the Non-Money Market Funds to invest Cash Balances in the Money Market Funds.

3. Applicants state that the proposed arrangement will 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, a Money Market Fund would not need to maintain a special reserve or balance to meet redemptions by a Non-Money Market Fund. Applicants state that the proposed arrangement will not result in an inappropriate layering of fees because, to the extent a Money Market Fund charges a sales load, redemption fee, asset-based distribution fee under a plan adopted under rule 12b-1 under the Act, or service fee (as defined in Rule 2830(b)(9) of the Rules of Conduct of the National Association of Securities Dealers (the "NASD Conduct Rules"), the Advisor will waive its advisory fee for each Non-Money Market Fund in an amount that offsets the amount of such fees incurred by a Non-Money Market Fund. If a Money Market Fund offers more than one class of shares, each Non-Money Market Fund will invest only in the class with the lowest expense ratio at the time of the investment. Before the next meeting of the board of trustees ("Board of Trustees") of a Non-Money Market Fund is held for the purpose of voting on an advisory contract with the Advisor or Sub-Advisor under section 15 of the Act, the Advisor and the Sub-Advisor will provide the Board of Trustees with

specific information regarding the approximate cost to the Advisor and Sub-Advisor of, or the portion of the advisory fee under the existing advisory contract with the Advisor or the Sub-Advisor attributable to, managing the Uninvested Cash of the Non-Money Market Fund that can be expected to be invested in the Money Market Funds. Before approving any advisory contract with the Advisor or Sub-Advisor for a Non-Money Market Fund, the Board of Trustees, including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Disinterested Trustees"), shall consider to what extent, if any, the advisory fees charged to the Non-Money Market Fund by the Advisor and the Sub-Advisor should be reduced to account for reduced services provided to the Non-Money Market Fund. Applicants represent that no Money Market Fund will acquire the securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act beyond the limits 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 investment company. "Affiliated persons," as defined in section 2(a)(3) of the Act, include persons that are under common control. Control is defined in section 2(a)(9) of the Act as "the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company." Applicants state that because the Funds share a common investment adviser and have identical Boards of Trustees, each of the Funds may be deemed to be under common control with all of the other Funds, and, therefore, an affiliated person of the other Funds.

5. Section 17(b) of the Act authorizes the Commission to grant an order exempting a transaction otherwise prohibited by section 17(a) if the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company involved and with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transaction from any provision of the Act if 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.

6. Applicants submit that the proposed transactions meet the terms of section 17(b) of the Act and are consistent with the standards for relief set forth in section 6(c) of the Act. Applicants state that the proposed transactions are reasonable and fair and would not involve overreaching because shares of the Money Market Funds will be purchased and redeemed by the Non-Money Market Funds at net asset value. Applicants also note that the Non-Money Market Funds will retain their ability to invest their Cash Balances directly in short-term obligations, as permitted by each Non-Money Market Fund's investment objectives and policies. Applicants state that each Money Market Fund reserves the right to discontinue selling shares to any of the Non-Money Market Funds if the Board of Trustees of the Money Market Fund determines that such sales 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 a registered 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 the Non-Money Market Funds and the Money Market Funds, by participating in the proposed transactions, and the Advisor and a Sub-Advisor (to the extent that the Sub-Advisor manages the assets of both a Non-Money Market Fund and a Money Market Fund), by managing the proposed transactions, could be deemed to be participating in a joint arrangement within the meaning of section 17(d) of the Act and rule 17d-1 under the Act.

8. In considering whether to approve a joint transaction under rule 17d-1 under the Act, the Commission considers whether the investment company's participation in the joint 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 Non-Money Market Funds in shares of the Money Market Funds would be on the same basis as any other shareholder and would be indistinguishable from any other shareholder account and that the proposed transactions satisfy the standards of rule 17d-1 under the Act.

### Applicants' Conditions

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

1. The shares of the Money Market Funds sold to and redeemed by the Non-Money Market Funds may be subject to a sales load, redemption fee, asset-based distribution fee under a plan adopted under Rule 12b-1 under the 1940 Act, or service fee (as defined in Rule 2830(b)(9) of the NASD Conduct Rules). The Advisor will waive its advisory fee for each Non-Money Market Fund in an amount that offsets the amount of such fees incurred by a Non-Money Market Fund.

2. Before the next meeting of the Board of Trustees of a Non-Money Market Fund is held for the purpose of voting on an advisory contract with the Advisor or Sub-Advisor under section 15 of the Act, the Advisor and the Sub-Advisor will provide the Board of Trustees with specific information regarding the approximate costs to the Advisor and the Sub-Advisor of, or portion of the advisory fee under the existing advisory contract with the Advisor and the Sub-Advisor attributable to, managing the Uninvested Cash of the Non-Money Market Fund that can be expected to be invested in the Money Market Funds. Before approving any advisory contract with the Advisor or a Sub-Advisor for a Non-Money Market Fund, the Board of Trustees, including a majority of the Disinterested Trustees, shall consider to what extent, if any, the advisory fees charged to the Non-Money Market Fund by the Advisor and the Sub-Advisor should be reduced to account for the reduced services provided to the Non-Money Market Fund by the Advisor and the Sub-Advisor as a result of Uninvested Cash being invested in the Money Market Funds. The Non-Money Market Fund's minute books will record fully the Board of Trustees' consideration in approving the advisory contract with the Advisor or a Sub-Advisor, including the considerations relating to fees referred to above.

3. Each of the Non-Money Market Funds will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Non-Money Market Fund's aggregate investment of Uninvested Cash in the Money Market Funds does not exceed 25% of the Non-Money Market Fund's total assets.

4. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Non-Money Market Fund's respective investment

restrictions, if any, and will be consistent with each Non-Money Market Fund's policies as set forth in its prospectus and statement of additional information.

5. Each Non-Money Market Fund and Money Market Fund that may rely on the order shall be advised by an Advisor and will be in the same group of investment companies (as defined in section 12(d)(1)(G) of the Act).

6. No Money Market Fund shall acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in a securities lending program, a majority of the Fund's Board of Trustees, including a majority of the Disinterested Trustees, will approve the Fund's participation in the securities lending program. The Board of Trustees also will evaluate the securities lending program and its 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.

8. The securities lending program of each Fund will comply with all present and future Commission and staff positions regarding securities lending programs.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-2585 Filed 5-23-05; 8:45 am]

**BILLING CODE 8010-01-P**

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## DEPARTMENT OF STATE

[Public Notice 5067]

### Overseas Schools Advisory Council Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Tuesday, June 21, 2005, at 9:30 a.m. in Conference Room 1406, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas, which are assisted by the Department of State and which are attended by dependents of U.S. Government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. The agenda includes a review of the recent activities of American-sponsored overseas schools and the overseas schools regional associations, presentations on developing improved communications and fundraising capabilities for the Council, and a presentation on a recent Council project to enhance the educational programs of American overseas schools.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should so advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, Room H328, SA-1, Washington, DC 20522-0132, telephone 202-261-8200, prior to June 11, 2005. Each visitor will be asked to provide his/her date of birth and Social Security number at the time of registration and attendance and must carry a valid photo ID to the meeting. All attendees must use the C Street entrance to the building.

Dated: May 18, 2005.

**Keith D. Miller,**

*Executive Secretary, Overseas Schools  
Advisory Council, Department of State.*

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**BILLING CODE 4710-24-P**

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## DEPARTMENT OF STATE

**Bureau of Administration**

[Public Notice 5086]

### Notice of Availability of Alternative Fuel Vehicle (AFV) Report for Fiscal Year 2004

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of State, Bureau of Administration, is issuing this notice in order to comply with the Energy Policy Act of 1992 and 42 U.S.C. 13218(b). The purpose of this notice is to announce the public availability of the Department of State's final Fiscal Year 2004 report at the following Web site: <http://www.state.gov/m/a/c8503.htm>.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding AFV reports on the