

24, 2006, and with the Minnesota State official, Ms. D. Pile of the Commerce Department, on April 26, 2006, regarding the environmental impact of the proposed actions. The State officials had no comments.

#### Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed actions will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed actions.

For further details with respect to the proposed actions, see the licensee's letter dated October 12, 2005. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or send an e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 11th day of May 2006.

For the Nuclear Regulatory Commission.

**Carl F. Lyon,**

*Project Manager, Plant Licensing Branch III-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27317; 812-13156]

### Van Kampen Asset Management, et al.; Notice of Application

May 12, 2006.

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

**ACTION:** Notice of application for an order under sections 6(c) and 23(c)(3) of the Investment Company Act of 1940 (the "Act") for an exemption from rule 23c-3 under the Act.

**APPLICANTS:** Van Kampen Asset Management (the "VK Adviser"), Van

Kampen Funds Inc. (the "VK Distributor"), Van Kampen Senior Loan Fund (formerly known as Van Kampen Prime Rate Income Trust) (the "VK Trust"), Morgan Stanley Investment Advisors Inc. (the "MS Adviser"), Morgan Stanley Distributors Inc. (the "MS Distributor") and Morgan Stanley Prime Income Trust (the "MS Trust", and, together with the VK Trust, the "Trusts").

**SUMMARY OF APPLICATION:** Applicants request an order under sections 6(c) and 23(c)(3) of the Act for an exemption from certain provisions of rule 23c-3 to permit certain registered closed-end investment companies to make repurchase offers on a monthly basis.

**FILING DATES:** The application was filed on January 25, 2005 and amended on December 29, 2005 and May 5, 2006.

**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 6, 2006, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090; Applicants, c/o Charles B. Taylor, Esq., Skadden, Arps, Slate, Meagher & Flom LLP, 333 West Wacker Drive, Chicago, Illinois 60606.

**FOR FURTHER INFORMATION CONTACT:** Shannon Conaty, Senior Counsel, at (202) 551-6827, or Janet M. Grossnickle, Branch Chief, 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 Branch, 100 F Street, NE., Washington, DC 20549-0102 (tel. (202) 551-8090).

#### Applicants' Representations

1. Each of the Trusts is a closed-end management investment company registered under the Act and organized

as a Massachusetts business trust. The VK Adviser and the MS Adviser, both investment advisers registered under the Investment Advisers Act of 1940 (the "Advisers Act"), serve as investment adviser to the VK Trust and the MS Trust, respectively. The VK Distributor, a broker-dealer registered under the Securities Exchange Act of 1934 (the "Exchange Act"), distributes the VK Trust's shares and serves as the VK Trust's administrator. The MS Distributor, a broker-dealer registered under the Exchange Act, distributes the MS Trust's shares. The VK Adviser, the VK Distributor, the MS Adviser and the MS Distributor are all direct or indirect wholly-owned subsidiaries of Morgan Stanley. Applicants request that any relief granted also apply to any registered closed-end management investment company that operates as an interval fund pursuant to rule 23c-3 for which the VK Adviser, the VK Distributor, the MS Adviser, the MS Distributor or any entity controlling, controlled by or under common control (within the meaning of section 2(a)(9) of the Act) with the VK Adviser, the VK Distributor, the MS Adviser or the MS Distributor acts as investment adviser, principal underwriter or administrator (collectively, the "Other Trusts").<sup>1</sup>

2. The VK Trust's investment objective is to provide a high level of current income, consistent with the preservation of capital. The VK Trust invests primarily in adjustable rate senior loans made to corporations and other borrowers. Under normal market conditions, the VK Trust invests at least 80% of its net assets (plus any borrowings for investment purposes) in adjustable rate senior loans. The VK Trust may also invest up to 20% of its total assets in senior loans that are not secured by any specific collateral, senior loans made to borrowers located outside the U.S. (provided no more than 5% of these loans or other assets are non-U.S. dollar denominated), and in any combination of warrants and equity securities incidental to investment in senior loans, junior debt securities, high quality short-term debt securities, credit-linked deposits and Treasury Inflation Protected Securities (or other inflation-indexed bonds issued by the U.S. government, its agencies or instrumentalities).

3. The MS Trust's investment objective is to provide a high level of current income, consistent with the preservation of capital. The MS Trust

<sup>1</sup> All entities currently intending to rely on the requested relief have been named as applicants. Any entity that relies on the requested order in the future will do so only in accordance with the terms and conditions of the application.

invests primarily in collateralized senior loans made to corporations, partnerships or other entities. Under normal market conditions, the MS Trust invests at least 80% of its total assets in collateralized senior loans. The MS Trust may also invest up to 20% of its total assets in cash or short-term high quality money market instruments, credit-linked deposits, junior debt securities or securities with a lien on collateral that is lower than a senior claim on collateral, and in loans that hold the most senior position in a borrower's capital structure, but are unsecured.

4. The VK Trust continuously offers three classes of shares to the public at net asset value. The VK Trust currently operates as an "interval fund" pursuant to rule 23c-3 under the Act, and makes quarterly tender offers to repurchase its shares.<sup>2</sup> The MS Trust continuously offers one class of shares to the public at net asset value, but it intends to add multiple classes of shares. The MS Trust also intends to operate as an "interval fund" pursuant to rule 23c-3 under the Act, and make quarterly tender offers to repurchase its shares.<sup>3</sup> Applicants request an order to permit each of the VK Trust and the MS Trust (and any Other Trust) to offer to repurchase a portion of its common shares at one-month intervals, rather than the three, six, or twelve-month intervals specified by rule 23c-3. Shares of the VK Trust and the MS Trust are offered with initial or deferred sales charges and certain classes of the VK Trust's shares also carry asset-based distribution and service fees.<sup>4</sup> The Trusts or any Other Trust may in the future offer additional

<sup>2</sup> From its inception in 1989 until February 2005, the VK Trust considered each quarter to offer to repurchase a portion of its outstanding shares at their then-current net asset value pursuant to rule 13e-4 of the Exchange Act. In February 2005, the VK Trust began operating as an interval fund making quarterly repurchases pursuant to Rule 23c-3.

<sup>3</sup> From its inception in 1989, the MS Trust has considered each quarter to offer to repurchase a portion of its outstanding shares at their then-current net asset value pursuant to rule 13e-4 of the Exchange Act. The MS Trust is currently in the process of converting to an interval fund making quarterly repurchases pursuant to Rule 23c-3.

<sup>4</sup> The VK Trust currently offers Class A, B and C shares. (The VK Trust also has IB shares and IC shares which are not continuously offered.) Each class of continuously offered shares is subject to annual asset-based distribution and service fees. Class B and C shares are subject to early withdrawal charges ("EWCs"). The MS Trust's single class of shares is not subject to any annual asset-based distribution and service fees, but is subject to an EWC. The applicants previously obtained exemptive relief from the Commission as it relates to the imposition of EWCs. See in the Matter of Van Kampen Investment Advisory Corp., *et al.*, Investment Company Act Rel. Nos. 25924 (February 3, 2003) (notice) and 25951 (March 3, 2003) (order).

classes of common shares with a front-end sales charge, an EWC and/or asset-based distribution or service fees. The Trusts' common shares are not offered or traded in the secondary market and are not listed on any exchange or quoted on any quotation medium.

5. Each of the Trusts and any Other Trust will disclose in its prospectus and annual reports its fundamental policy to make monthly offers to repurchase a portion of its common shares at net asset value, less deduction of a repurchase fee, if any, as permitted by rule 23c-3(b)(1), and the imposition of EWCs as permitted pursuant to exemptive relief previously granted by the Commission. The fundamental policy will be changeable only by a majority vote of the holders of such trust's outstanding voting securities. Under the fundamental policy, the repurchase offer amount will be determined by the board of trustees of the relevant Trust or Other Trust ("Board") prior to each repurchase offer. The Trusts and any Other Trust will comply with rule 23c-3(b)(8)'s requirements with respect to its trustees who are not interested persons of the VK Trust, the MS Trust or Other Trust, as applicable, within the meaning of section 2(a)(19) of the Act ("Disinterested Trustees") and their legal counsel. Under its fundamental policy, each Trust and Other Trust will make monthly offers to repurchase not less than 5% of its outstanding shares at the time of the repurchase request deadline. The repurchase offer amounts for the then-current monthly period, plus the repurchase offer amounts for the two monthly periods immediately preceding the then-current monthly period, will not exceed 25% of the outstanding common shares of the relevant Trust or Other Trust.

6. The prospectus of each Trust and Other Trust will state the means to determine the repurchase request deadline and the maximum number of days between each repurchase request deadline and the repurchase pricing date. Each Trust's or Other Trust's repurchase pricing date normally will be the same date as the repurchase request deadline and pricing will be determined after close of business on that date.

7. Pursuant to rule 23c-3(b)(1), each Trust and any Other Trust will repurchase shares for cash on or before the repurchase payment deadline, which will be no later than seven calendar days after the repurchase pricing date. Each Trust and Other Trust currently intends to make payment by the third business day following the repurchase pricing date. Each Trust and

Other Trust will make payment for shares repurchased in the previous month's repurchase offer at least five business days before sending notification of the next repurchase offer. The VK Trust has not and currently does not intend to deduct any repurchase fees from the repurchase proceeds payable to tendering shareholders, but the Trusts and Other Trusts reserve the right to do so in compliance with rule 23c-3(b)(1).

8. Each Trust and Other Trust will provide common shareholders with notification of each repurchase offer no less than seven days and no more than fourteen days prior to the repurchase request deadline. The notification will include all information required by rule 23c-3(b)(4)(i). Each Trust and Other Trust will file the notification and the Form N-23c-3 with the Commission within three business days after sending the notification to its respective common shareholders.

9. Each Trust and Other Trust will not suspend or postpone a repurchase offer except pursuant to the vote of a majority of its Disinterested Trustees, and only under the limited circumstances specified in rule 23c-3(b)(3)(i). The Trusts and any Other Trust will not condition a repurchase offer upon tender of any minimum amount of shares. In addition, each of the Trusts and any Other Trust will comply with the pro ration and other allocation requirements of rule 23c-3(b)(5) if common shareholders tender more than the repurchase offer amount. Further, each Trust and any Other Trust will permit tenders to be withdrawn or modified at any time until the repurchase request deadline, but will not permit tenders to be withdrawn or modified thereafter.

10. From the time a Trust or any Other Trust sends its notification to shareholders of the repurchase offer until the repurchase pricing date, a percentage of such trust's assets equal to at least 100% of the repurchase offer amount will consist of: (a) Assets that can be sold or disposed of in the ordinary course of business at approximately the price at which such trust has valued such investment within a period equal to the period between the repurchase request deadline and the repurchase payment deadline; or (b) assets that mature by the next repurchase payment deadline. In the event the assets of a Trust or Other Trust fail to comply with this requirement, the Board will cause such trust to take such action as it deems appropriate to ensure compliance.

11. In compliance with the asset coverage requirements of section 18 of

the Act, any senior security issued by, or other indebtedness of, each of the Trusts and any Other Trust will either mature by the next repurchase pricing date or provide for such trust's ability to call, repay or redeem such senior security or other indebtedness by the next repurchase pricing date, either in whole or in part, without penalty or premium, as necessary to permit that trust to complete the repurchase offer in such amounts determined by its Board.

12. The Board of each Trust and any Other Trust will adopt written procedures to ensure that such trust's portfolio assets are sufficiently liquid so that it can comply with its fundamental policy on repurchases and the liquidity requirements of rule 23c-3(b)(10)(i). The Board will review the overall composition of the portfolio and make and approve such changes to the procedures as it deems necessary.

#### Applicants' Legal Analysis

1. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or rule thereunder, 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.

2. Section 23(c) of the Act provides in relevant part that no registered closed-end investment company shall purchase any securities of any class of which it is the issuer except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under such other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

3. Rule 23c-3 under the Act permits a registered closed-end investment company to make repurchase offers for its common stock at net asset value at periodic intervals pursuant to a fundamental policy of the investment company. "Periodic interval" is defined in rule 23c-3(a)(1) as an interval of three, six, or twelve months. Rule 23c-3(b)(4) requires that notification of each repurchase offer be sent to shareholders no less than 21 calendar days and no more than 42 calendar days before the repurchase request deadline.

4. Applicants request an order pursuant to sections 6(c) and 23(c) of the Act exempting them from rule 23c-3(a)(1) to the extent necessary to permit the Trusts and any Other Trust to make

monthly repurchase offers. Applicants also request an exemption from the notice provisions of rule 23c-3(b)(4) to the extent necessary to permit the Trusts and any Other Trust to send notification of an upcoming repurchase offer to shareholders at least seven days but no more than fourteen calendar days in advance of the repurchase request deadline.

5. Applicants contend that monthly repurchase offers are in the shareholders' best interests and consistent with the policies underlying rule 23c-3. Applicants assert that monthly repurchase offers will provide investors with more liquidity than quarterly repurchase offers. Applicants assert that shareholders will be better able to manage their investments and plan transactions, because if they decide to forego a repurchase offer, they will only need to wait one month for the next offer. Applicants also contend that the portfolios of the Trusts and any Other Trust will be managed to provide ample liquidity for monthly repurchase offers. Applicants do not believe that a change to monthly repurchases would necessitate any change in portfolio management practices of the Trusts or any Other Trust in order to satisfy rule 23c-3. In fact, applicants expect limited or no impact on overall portfolio management or performance of such trusts upon converting to monthly offers and believe that it may be easier to manage the cash of the portfolio for the smaller monthly offers compared to the larger quarterly ones.

6. Applicants propose to send notification to shareholders at least seven days, but no more than fourteen calendar days, in advance of a repurchase request deadline. Applicants assert that, because the Trusts and any Other Trust intend to price on the repurchase request deadline and pay by the third business day following the pricing date, the entire procedure can be completed before the next notification is sent out to shareholders; thus avoiding any overlap. Applicants believe that these procedures will eliminate any possibility of investor confusion. Applicants also state that monthly repurchase offers will be a fundamental feature of the Trusts and any Other Trust, and their prospectuses will provide a clear explanation of the repurchase program.

7. Applicants submit that for the reasons given above the requested relief is appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

#### Applicants' Conditions

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

1. Each Trust (and any Other Trust relying on this relief) will make a repurchase offer pursuant to rule 23c-3(b) for a repurchase offer amount of not less than 5% in any one-month period. In addition, the repurchase offer amount for the then-current monthly period, plus the repurchase offer amounts for the two monthly periods immediately preceding the then-current monthly period, will not exceed 25% of the Trust's (or Other Trust's) outstanding shares. Each Trust (or Other Trust relying on this relief) may repurchase additional tendered shares pursuant to rule 23c-3(b)(5) only to the extent the percentage of additional shares so repurchased does not exceed 2% in any three-month period.

2. Payment for repurchased shares will occur at least five business days before notification of the next repurchase offer is sent to shareholders of any Trust (or Other Trust relying on this relief).

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

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 22, 2006: An Open Meeting will be held on Monday, May 22, 2006 at 10 a.m. in the Auditorium, Room LL-002 and Closed Meetings will be held on Monday, May 22, 2006 at 11 a.m. and on Thursday, May 25, 2006 at 2 p.m.

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. 552(b)(3), (5), (7), (8), (9)(B), (10) and 17 CFR 200.402(a)(3), (5), (7), (8), (9)(ii), and (10) permit consideration of