

product list.<sup>1</sup> The Postal Service asserts that Priority Mail & First-Class Package Service Contract 1 is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2013–5.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2013–5.

*Request.* To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors’ Decision No. 11–6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service’s total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

*Related contract.* The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on the first business day after the date that the Commission issues all regulatory approvals. *Id.* at 3. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days’ written notice to the other party. *Id.* The

Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer’s mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

## II. Notice of Filings

The Commission establishes Docket Nos. MC2013–5 and CP2013–5 to consider the Request pertaining to the proposed Priority Mail & First-Class Package Service Contract 1 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service’s filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than October 25, 2012. The public portions of these filings can be accessed via the Commission’s Web site (<http://www.prc.gov>).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

## III. Supplemental Information

Contract Term I.E. indicates that the customer can request the use of Package Intercept service at a negotiated rate. The Postal Service’s workpapers do not take into account the customer’s ability to use Package Intercept service for a negotiated rate in demonstrating that the contract will cover its attributable cost.

Please provide revised supporting workpapers that demonstrate that the contract as a whole will cover its attributable cost taking into account the customer’s ability to use Package Intercept service at a negotiated rate. Response to the supplemental information request is due no later than October 24, 2012.

## IV. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket Nos. MC2013–5 and CP2013–5 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an

officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than October 25, 2012.

4. Response to the supplemental information request is due no later than October 24, 2012.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Ruth Ann Abrams,**

*Acting Secretary.*

[FR Doc. 2012–26213 Filed 10–23–12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30235; 812–14012]

### Trust for Professional Managers and Collins Capital Investments, LLC; Notice of Application

October 18, 2012.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and that would grant relief from certain disclosure requirements.

**APPLICANTS:** Trust for Professional Managers (the “Trust”) and Collins Capital Investments, LLC (the “Advisor”) (collectively, “Applicants”).

**FILING DATES:** The application was filed March 7, 2012, and amended on June 26, 2012 and October 18, 2012.

**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 November 13, 2012, 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

<sup>1</sup> Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 1 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors’ Decision, Contract, and Supporting Data, October 17, 2012 (Request).

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:** Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

Applicants: Joseph C. Neuberger, 615 East Michigan Street, Milwaukee, WI 53202; Kent A. Windhorst, Collins Capital Investments, LLC, 806 Douglas Road, Suite 570, Coral Gables, FL 33134.

**FOR FURTHER INFORMATION CONTACT:** Jaea F. Hahn, Senior Counsel, at (202) 551-6870 or Janet M. Grossnickle, 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 via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

*Applicants' Representations:*

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company. The Trust is organized as a series investment company and currently consists of 27 series, one of which is advised by the Advisor.<sup>1</sup> The Applicants are not requesting relief for any series other than those advised by the Advisor. The Advisor is a limited liability company organized under Delaware law. The Advisor is, and any future Advisor will be, registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). The Advisor serves as

<sup>1</sup> Applicants are not requesting relief for any series other than those advised by the Advisor. Applicants request relief with respect to any existing and any future series of the Trust or any other registered open-end management company that: (a) Is advised by the Advisor or a person controlling, controlled by, or under common control with the Advisor or its successor (each, also an "Advisor"); (b) uses the manager of managers structure described in the application; and (c) complies with the terms and conditions of the requested order (any such series, a "Fund" and collectively, the "Funds"). The only existing registered open-end management investment company that currently intends to rely on the requested order is named as an Applicant, and the only series that currently intends to rely on the requested order as a Fund is the Collins Alternative Solutions Fund. For purposes of the requested order, "successor" is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. If the name of any Fund contains the name of a Subadvisor (as defined below), that name will be preceded by the name of the Advisor.

the investment adviser to each Series pursuant to an investment advisory agreement with the Trust (each an "Advisory Agreement" and collectively, the "Advisory Agreements").<sup>2</sup> Each Advisory Agreement was approved or will be approved by the board of trustees of the Trust (the "Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Trust, the Fund, or the Advisor ("Independent Trustees") and by the shareholders of the relevant Fund in the manner required by sections 15(a) and 15(c) of the Act and rule 18f-2 under the Act.

2. Under the terms of each Advisory Agreement, the Advisor will provide the Funds with overall management services and as it deems appropriate, continuously review, supervise and administer each Fund's investment program, subject to the supervision of, and policies established by the Board. For the investment management services it will provide to each Fund, the Advisor will receive the fee specified in the Advisory Agreement from such Fund based on the average daily net assets of the Fund. The Advisory Agreement permits the Advisor, subject to the approval of the Board, to delegate certain responsibilities to one or more subadvisors ("Subadvisors"). The Advisor has entered into subadvisory agreements with various Subadvisors ("Subadvisory Agreements") to provide investment advisory services to the Funds.<sup>3</sup> Each Subadvisor is, and any future Subadvisor will be, an investment adviser as defined in section 2(a)(20) of the Act as well as registered with the Commission as an "investment adviser" under the Advisers Act. The Advisor evaluates, allocates assets to and oversees the Subadvisors, and makes recommendations about their hiring, termination and replacement to the Board, at all times subject to the authority of the Board. The Advisor will compensate the Subadvisors out of the advisory fee paid by a Fund to the Advisor under the Advisory Agreement.

<sup>2</sup> Each future investment advisory agreement between an Advisor and a Fund is also included in the term "Advisory Agreement". The Advisor currently serves as investment advisor only to the Collins Alternative Solutions Fund, a series of the Trust, under the Advisory Agreement.

<sup>3</sup> As of the date of the amended application, the Advisor had entered into Subadvisory Agreements with Whitebox Advisors, LLC, Stadion Money Management, LLC, Pinebank Asset Management, LP, Battenkill Asset Management, Inc. and The Cambridge Strategy (Asset Management) Limited. None of the existing Subadvisors is affiliated with the Advisor.

3. Applicants request an order to permit the Advisor, subject to Board approval, to select certain Subadvisors to manage all or a portion of the assets of a Fund or Funds pursuant to a Subadvisory Agreement and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Subadvisor that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or of the Advisor, other than by reason of serving as a subadvisor to one or more of the Funds ("Affiliated Subadvisor").

4. Applicants also request an order exempting the Funds from certain disclosure provisions described below that may require the Applicants to disclose fees paid by the Advisor or a Fund to each Subadvisor. Applicants seek an order to permit the Trust to disclose for a Fund (as both a dollar amount and as a percentage of the Fund's net assets): (a) The aggregate fees paid to the Advisor and any Affiliated Subadvisor; and (b) the aggregate fees paid to Subadvisors other than Affiliated Subadvisors (collectively, "Aggregate Fee Disclosure"). Any Fund that employs an Affiliated Subadvisor will provide separate disclosure of any fees paid to the Affiliated Subadvisor.

*Applicants' Legal Analysis:*

1. Section 15(a) of the Act provides, in relevant part, that is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a vote of a majority of the company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N-1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N-1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a-1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 ("1934 Act"). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the "rate of compensation of the investment adviser," the "aggregate amount of the investment adviser's fees," a description of the "terms of the contract to be acted upon," and, if a change in the advisory

fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company’s registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require a registered investment company to include in its financial statement information about investment advisory fees.

5. 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 provisions of the Act, or from any rule thereunder, 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. Applicants state that the requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Advisor subject to the review and approval of the Board, to select the Subadvisors who are best suited to achieve the Fund’s investment objectives. Applicants assert that, from the perspective of the shareholder, the role of the Subadvisors is substantially equivalent to that of the individual portfolio managers employed by traditional investment company advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose unnecessary delays and expenses on the Funds and may preclude the Funds from acting promptly when the Advisor and Board consider it appropriate to hire Subadvisors or amend Subadvisory Agreements. Applicants note that the Advisory Agreements and any Subadvisory Agreements with Affiliated Subadvisors will remain subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

7. If a new Subadvisor is retained in reliance on the requested order, the Funds will inform shareholders of the hiring of a new Subadvisor pursuant to the following procedures (“Modified Notice and Access Procedures”): (a) Within 90 days after a new Subadvisor is hired for any Fund, that Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement;<sup>4</sup> and (b) the Fund will make

the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. Applicants assert that a proxy solicitation to approve the appointment of new Subadvisors would provide no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Moreover, as indicated above, the applicable Board would comply with the requirements of sections 15(a) and 15(c) of the Act before entering into or amending Subadvisory Agreements.

8. Applicants assert that the requested disclosure relief will benefit shareholders of the Funds because it will improve the Advisor’s ability to negotiate the fees paid to Subadvisors. Applicants state that the Advisor may be able to negotiate rates that are below a Subadvisor’s “posted” amounts if the Advisor is not required to disclose the Subadvisors’ fees to the public.

*Applicants’ Conditions:*

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

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund’s outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Fund’s shares to the public.

2. The prospectus for each Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Fund will hold itself out to the public as employing the

14a–16 under the Exchange Act, and specifically will, among other things: (a) Summarize the relevant information regarding the new Subadvisor; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Funds.

A “Multi-manager Information Statement” will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed electronically with the Commission via the EDGAR system.

manager of managers structure described in the application. The prospectus will prominently disclose that the Advisor has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisors and recommend their hiring, termination, and replacement.

3. Funds will inform shareholders of the hiring of a new Subadvisor within 90 days after the hiring of the new Subadvisor pursuant to the Modified Notice and Access Procedures.

4. The Advisor will not enter into a Subadvisory Agreement with any Affiliated Subadvisor without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the nomination and selection of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. When a Subadvisor change is proposed for a Fund with an Affiliated Subadvisor, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Advisor or the Affiliated Subadvisor derives an inappropriate advantage.

7. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then existing Independent Trustees.

8. Each Advisor will provide the Board, no less frequently than quarterly, with information about the profitability of the Advisor on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadvisor during the applicable quarter.

9. Whenever a Subadvisor is hired or terminated, the Advisor will provide the Board with information showing the expected impact on the profitability of the Advisor.

10. The Advisor will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund’s assets and, subject to review and approval of the Board, will (i) set each Fund’s overall investment strategies; (ii) evaluate, select and recommend Subadvisors to manage all or part of a Fund’s assets; (iii) when appropriate,

<sup>4</sup> A “Multi-manager Notice” will be modeled on a Notice of Internet Availability as defined in rule

allocate and reallocate a Fund's assets among multiple Subadvisors; (iv) monitor and evaluate the performance of Subadvisors; and (v) implement procedures reasonably designed to ensure that the Subadvisors comply with each Fund's investment objective, policies and restrictions.

11. No trustee or officer of the Trust, or of a Fund, or director or officer of the Advisor, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadvisor, except for (a) ownership of interests in the Advisor or any entity that controls, is controlled by, or is under common control with the Advisor; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Subadvisor or an entity that controls, is controlled by, or is under common control with a Subadvisor.

12. Each Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the application, the requested order will expire on the effective date of that rule.

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

Kevin M. O'Neill,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68065; File No. SR-NYSE-2012-52]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Sections 102.01 and 103.00 of the Exchange's Listed Company Manual To Permit the Consideration of Stockholders and Trading Volume in the Company's Home Country Market or Primary Trading Market Outside the United States, Provided Such Market is a Regulated Stock Exchange, When Determining the Qualification for Initial Listing Under Section 102.01 of a Company From Outside North America

October 18, 2012.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the

"Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that October 5, 2012, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 Exchange proposes to amend Sections 102.01 and 103.00 of the Exchange's Listed Company Manual (the "Manual") to permit the consideration of stockholders and trading volume in the company's home country market or primary trading market outside the United States, provided such market is a regulated stock exchange, when determining the qualification for initial listing under Section 102.01 of a company from outside North America. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend Sections 102.01 and 103.00 of the Manual to permit the consideration of stockholders and trading volume in the company's home country market or primary trading market outside the United States, provided such market is a regulated stock exchange, when determining the qualification for initial

listing under Section 102.01 of a company from outside North America.

Section 102.01A of the Manual sets forth the Exchange's minimum initial listing requirements with respect to distribution for companies seeking to list under the Exchange's "domestic" initial listing standards.<sup>4</sup> A note included in Section 102.01B provides that, when considering a listing application from a company organized under the laws of Canada, Mexico or the United States ("North America"), the Exchange will include all North American holders and North American trading volume in applying the minimum stockholder and trading volume requirements of Section 102.01A. By comparison, Section 103.00 specifies that, when a company from outside North America seeks to list under the domestic criteria in Section 102.01B, the Exchange will consider only stockholders and trading volume in the United States.

The Exchange proposes to amend Sections 102.01B and 103.00 to provide that, in connection with the listing of any issuer from outside North America, the Exchange will have the discretion, but will not be required, to consider holders and trading volume in the company's home country market or primary trading market outside the United States in determining whether a company is qualified for listing under Section 102.01, provided such market is a regulated stock exchange.<sup>5</sup> The proposed amended rule text specifies that, in exercising this discretion, the Exchange would consider all relevant factors including: (i) Whether the information was derived from a reliable source, preferably either a regulated securities market or a transfer agent that was subject to governmental regulation; (ii) whether there existed efficient

<sup>4</sup> While Section 102.01 makes reference to "domestic" companies, Section 103.00 specifies that non-U.S. companies can qualify for listing under either the "domestic" standards set forth in Section 102.01 or the Alternate Listing Standards for foreign companies set forth in Section 103.

<sup>5</sup> Consistent with the existing text of Section 102.01B, in the case of a security that would list as an American Depositary Receipt ("ADR"), the Exchange would adjust share data so that the company's shareholders and trading volume would be analyzed on an ADR-equivalent basis. For example, assume that a Mexican company has ADRs trading in the United States and ordinary shares trading in Mexico, with each ADR representing 10 ordinary shares. If the company were to apply to list its U.S.-traded ADRs on the NYSE, the Exchange would divide the Mexican share volume by 10 in determining whether the combined ADR/share volume meets the requirements of the listing criteria. For Companies that have multiple series of shares or ADR's the Exchange will include the volume only in the specific ordinary shares and overlying ADRs that would be listed on the exchange.

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>1</sup> 15 U.S.C. 78s(b)(1).