

that invests in such Unregistered Money Market Fund.

10. To engage in Interfund Transactions, the Registered Funds, Unregistered Funds, Managed Accounts and Money Market Funds will comply with rule 17a-7 under the Act in all respects other than the requirement that the parties to the transaction be affiliated persons (or affiliated persons of affiliated persons) of each other solely by reason of having a common investment adviser, or investment advisers which are affiliated persons of each other, common officers, and/or common directors or trustees, solely because a Participating Fund and a Money Market Fund might become affiliated persons within the meaning of section 2(a)(3)(A) and (B) of the Act.

11. The net asset value per share with respect to shares of an Unregistered Money Market Fund will be determined separately for each Unregistered Money Market Fund by dividing the value of the assets belonging to that Unregistered Money Market Fund, less the liabilities of that Unregistered Money Market Fund, by the number of shares outstanding with respect to that Unregistered Money Market Fund.

12. Before a Registered Participating Fund may participate in the Securities Lending Program, a majority of the Board (including a majority of the Disinterested Directors) will approve the Registered Participating Fund's participation in the Securities Lending Program. No less frequently than annually, the Board also will evaluate, with respect to each Registered Participating Fund, any securities lending arrangement and its results and determine that any investment in Cash Collateral in the Money Market Funds is in the best interest of the Registered Participating Fund.

Condition 2 to the Fund-of-Funds Order is amended to read as follows: "No Underlying Portfolio will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that the Underlying Portfolio other than a money market fund acquires securities of another registered or unregistered investment company pursuant to exemptive relief from the Commission permitting the Underlying Portfolio to purchase securities of an affiliated registered or unregistered money market fund for short-term cash management purposes.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26075; 812-12779]

American Performance Funds, et al.; Notice of Application

June 12, 2003.

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

ACTION: Notice of an application for an order 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 that would permit certain registered 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. Prior to relying on the requested order, Applicants would cease relying on a prior order.¹

APPLICANTS: American Performance Funds, AmSouth Funds, BNY Hamilton Funds, Inc. ("BNY Hamilton Funds"), Citizens Funds, Fifth Third Funds, HSBC Advisor Funds Trust, HSBC Investor Funds and HSBC Investor Portfolios (collectively, the "HSBC Funds"), Legacy Funds Group ("Legacy Funds"), Mercantile Funds, Inc. ("Mercantile Funds"), Old Westbury Funds, Inc. ("Old Westbury Funds"),

¹ On February 19, 2000, the Commission issued an order amending prior orders under Sections 6(c) and 17(b) of the Act that exempted certain Applicants and certain other entities who are not parties to the application from the provisions of Section 12(d)(1)(A) and Section 17(a) of the Act and that permitted pursuant to rule 17d-1, certain joint transactions in accordance with Section 17(d) and rule 17d-1. See Investment Company Act Rel. Nos. 24274 (Feb. 1, 2000) (notice) and 24325 (Feb. 19, 2000) (order); Investment Company Act Rel. Nos. 23962 (Aug. 23, 1999) (notice) and 24021 (Sept. 21, 1999) (order); Investment Company Act Rel. Nos. 23393 (Aug. 18, 1998) (notice) and 23436 (Sept. 15, 1998); Investment Company Act Rel. Nos. 22636 (April 24, 1997) (notice) and 22677 (May 20, 1997) (order); Investment Company Act Rel. Nos. 19695 (Sept. 9, 1993) and 19759 (Oct. 5, 1993) (order).

Performance Funds Trust ("Performance Funds"), The Victory Portfolios, Vintage Mutual Funds, BOK Investment Advisers, Inc. ("BOK") (formerly, Investment Concepts, Inc.), AmSouth Investment Management Company, LLC ("AmSouth"), The Bank of New York ("BNY"), Citizens Advisers, Inc. ("Citizens Advisers"), Fifth Third Asset Management, Inc. ("Fifth Third"), HSBC Asset Management (Americas) Inc. ("HSBC"), First Financial Capital Advisors LLC ("First Financial"), Bessemer Investment Management LLC ("Bessemer"), Mercantile Capital Advisors, Inc. ("Mercantile"), Trustmark Investment Advisors, Inc. (formerly, Trustmark Financial Services, Inc.) ("Trustmark"), Victory Capital Management, Inc. ("Victory") and Investors Management Group, Ltd. ("Investors Management Group").

Filing Dates: The application was filed on February 1, 2002 and was amended on June 9, 2003. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 July 7, 2003, 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, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609; Applicants, c/o Ryan M. Louvar, Esq., BISYS, 60 State Street, Suite 1300, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 942-0527 or Annette M. Capretta, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).