

Applicants' Representations

1. American Performance Funds, AmSouth Funds, Citizens Funds, Fifth Third Funds, HSBC Advisor Funds Trust, HSBC Investor Funds, Legacy Funds and Old Westbury Funds are Massachusetts business trusts that are registered under the Act as open-end management investment companies. BNY Hamilton Funds, Mercantile Funds and Vintage Mutual Funds are Maryland corporations that are registered under the Act as open-end management investment companies. HSBC Investor Portfolios is a New York trust that is registered under the Act as an open-end investment management company. The Performance Funds and The Victory Portfolios are Delaware statutory trusts that are registered under the Act as open-end management investment companies.

2. BOK is the investment adviser to each of the twelve series of the American Performance Funds. AmSouth is the investment adviser to the twenty-four series of the AmSouth Funds. Citizens Advisers is the investment adviser to the twelve series of the Citizens Funds. BNY is the investment adviser to the twenty series of BNY Hamilton Funds. Fifth Third serves as the investment adviser to thirty-five of the thirty-six series of the Fifth Third Funds. HSBC serves as investment adviser to the twenty-one series of the HSBC Funds. First Financial serves as the investment adviser to the three series of the Legacy Funds. Mercantile serves as the investment adviser to the fourteen series of the Mercantile Funds. Bessemer serves as the investment adviser to the five series of the Old Westbury Funds. Trustmark is the investment adviser to the seven series of the Performance Funds. Victory is the investment adviser to the twenty-six series of The Victory Portfolios. Investors Management Group is the investment adviser to the nine series of the Vintage Mutual Funds.

3. The American Performance Funds, AmSouth Funds, BNY Hamilton Funds, Citizens Funds, Fifth Third Funds, the HSBC Funds, Legacy Funds, Mercantile Funds, Old Westbury Funds, Performance Funds, The Victory Portfolios and the Vintage Mutual Funds and their respective series (each series, a "Fund," and collectively, the "Funds") each is in the American Performance, AmSouth, BNY Hamilton, Citizens, Fifth Third, HSBC, Legacy, Mercantile, Old Westbury, Performance, Victory and Vintage group of investment companies, respectively, within the meaning of section 12(d)(1)(G)(ii) of the Act (each a "Fund Group").

4. Applicants request that relief be extended to any registered open-end management investment company or series thereof for which BOK, AmSouth, BNY, Citizen Advisers, Fifth Third, HSBC, First Financial, Bessemer, Mercantile, Trustmark, Victory or Investors Management Group (each an "Adviser," and any entity controlled by, controlling or under common control with each Adviser, an "Adviser")² now or in the future serves as investment adviser (collectively with the Funds, the "Funds").³

5. Each Fund Group has one or more money market Funds ("Money Market Funds"). The Money Market Funds comply with rule 2a-7 under the Act. The Funds that are not Money Market Funds invest in a variety of debt and/or equity securities or other investments in accordance with their respective investment objectives and policies.

6. Applicants state that certain Funds ("Investing Funds") have, 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 dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, dividend payments, or money received from investors. The Investing Funds may participate in a securities lending program under which a Fund may lend its portfolio securities to registered broker-dealers or other institutional investors. The loans are continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash ("Cash Collateral," and together with Uninvested Cash, "Cash Balances").

7. Applicants request an order to permit each of the Investing Funds to invest its Cash Balances in one or more of the Money Market Funds within the same Fund Group, and to permit each of the Money Market Funds to sell its shares to, and redeem its shares from, the Investing Funds within the same Fund Group. Investment of Cash Balances in shares of the Money Market Funds will be made only to the extent that such investments are consistent with each Investing Fund's investment objectives, restrictions, and policies as

² Each Adviser is registered under the Investment Advisers Act of 1940 or will be exempt from registration.

³ Each Fund that currently intends to rely on the order has been named as an applicant. Any other Fund that may rely on the order in the future will do so only in accordance with the terms and conditions of the application.

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, in pertinent part, that no registered investment company may acquire securities of another investment company if the 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 acquired company's total 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 voting stock, or if the sale will cause more than 10% of the acquired company's voting stock 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 Investing 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, an Investing Fund would not be in a position to gain undue influence over a Money Market Fund. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b-1 under the Act or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers, Inc. ("NASD") Conduct Rules) or if such shares are subject to any such sales load, redemption fees, distribution fees or service fees, the Adviser will waive its advisory fee for each Investing