

10. The Proposed Credit Facility would be administered by investment professionals and administrative personnel from BACAP, including a portfolio manager of the Nations Money Market Funds ("Cash Management Group").² Under the Proposed Credit Facility, the portfolio managers for each Fund could provide standing instructions to participate as a borrower or lender. The Cash Management Group would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. The Cash Management Group will determine the aggregate amount of cash available for loans and borrowing demand at least once and possibly twice a day. Then, the Cash Management Group will allocate loans among borrowing Funds without any further communication from portfolio managers (other than the Nations Money Market Funds portfolio manager acting in his or her capacity as a member of the Cash Management Group). It is expected that there typically will be far more available uninvested cash each day than borrowing demand. All allocations will require approval of at least one member of the Cash Management Group who is not a portfolio manager of a Nations Money Market Fund. After allocating cash for Interfund Loans, the Cash Management Group will invest any remaining cash in accordance with the standing instructions of the relevant portfolio managers or return remaining amounts for investment directly by such portfolio managers.

11. The Cash Management Group would allocate borrowing demand and cash available for lending among participating Funds on what the Cash Management Group believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate; minimum, maximum or preferable loan sizes; and efforts to minimize the number of transactions and associated administrative costs. To reduce administrative and custody costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Board, including a majority of trustees who are not "interested persons," as defined in section 2(a)(19) of the Act

("Independent Trustees"), to ensure that both borrowing and lending Funds participate on an equitable basis.

12. The Cash Management Group would (a) Monitor the interest rates charged and the other terms and conditions of the loans, (b) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (c) ensure equitable treatment of each Fund, and (d) make quarterly reports to the Boards concerning any transactions by the Funds under the Proposed Credit Facility and the interest rates charged.

13. BACAP, through the members of the Cash Management Group, would administer the Proposed Credit Facility under its existing investment advisory agreement with each Fund and would receive no additional fees as compensation for these services. BACAP could, however, collect reimbursement for record keeping, book keeping, accounting, administrative and transactions fees or charges incurred in connection with any credit facilities. Fees for these services would be no higher than those applicable for comparable bank loan transactions.

14. No Fund will participate in the Proposed Credit Facility except to the extent such participation is consistent with its organizational documents and its investment policies and limitations. Also, no Fund will participate in the Proposed Credit Facility unless it has disclosed in its prospectus or statement of additional information ("SAI") all material facts about its intended participation.

15. In connection with the Proposed Credit Facility, applicants request an order under (a) section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) of the Act generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines "affiliated person" of another person, in

part, to be any person directly or indirectly controlling, controlled by, or under common control with, such other person. Applicants state that the Funds may be under common control by virtue of having BACAP as their common investment adviser, and/or by virtue of having common officers and trustees.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an 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. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) were intended to prevent a person with strong potential adverse interests to, and some influence over the investment decisions of, a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the Proposed Credit Facility transactions do not raise these concerns because (a) BACAP would administer the program as a disinterested fiduciary; (b) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) the lending Fund would receive interest at a rate higher than it could obtain through such other investments; and (e) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements, and any charges incurred would be no higher than those associated with comparable bank loan arrangements. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

² For purposes of the requested order, "Nations Money Market Funds" refers to money market Funds, each of which operates under rule 2a-7 under the Act.