

SUPPLEMENTARY INFORMATION: The following is a temporary order and 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).

Applicants' Representations

1. CSFB, a Delaware limited liability company, is a full service investment banking firm, engaged in securities underwriting, sales and trading, investment banking, financial advisory services, and investment research services. Certain Applicants serve as investment adviser or sub-adviser for one or more registered investment companies ("Funds"). Certain Applicants act as the depositor or principal underwriter for Funds.²

2. On October 31, 2003, the U.S. District Court for the Southern District of New York entered the Federal Injunction against CSFB in a matter brought by the Commission.³ The Commission alleged in the complaint ("Complaint") that CSFB violated sections 15(c) and 17(a) of the Securities Exchange Act of 1934 ("Exchange Act") and rules 15c1-2 and 17a-3 under the Exchange Act, and certain Conduct Rules of the National Association of Securities Dealers ("NASD") and Rules of the New York Stock Exchange ("NYSE") by engaging in acts and practices that created or maintained inappropriate influence by CSFB's investment banking business over the research analysts in CSFB's research department. The Federal Injunction enjoined CSFB directly or through its officers, directors, agents and employees, from violating sections 15(c) and 17(a) of the Exchange Act and the specific rules cited in the Complaint. Without admitting or denying the allegations in the Complaint, CSFB consented to the entry of the Federal Injunction as well as the payment of disgorgement and penalties and other equitable relief, including undertakings by CSFB to adopt and implement policies and procedures relating to certain research activities. Applicants state that CSFB expects to enter into settlement agreements relating to the activities referred to in the Complaint with certain state and territorial

agencies which may result in an injunction by a court of competent jurisdiction that is based on the same conduct and the same facts as the Complaint (each, a "State Injunction," and, together with the Federal Injunction, the "Injunctions"). Applicants request that this application cover any disqualifications of the Applicants under Section 9(a) resulting from the Injunctions.

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security from acting, among other things, as an investment adviser or depositor of any registered investment company or a principal underwriter for any registered open-end investment company, registered UIT or registered face-amount certificate company. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company, any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines "affiliated person" to include any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that CSFB is an affiliated person of each of the other Applicants within the meaning of section 2(a)(3) of the Act. Applicants further state that the entry of the Injunctions would result in Applicants being subject to the disqualification provisions of section 9(a) of the Act.

2. Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to Applicants, are unduly or disproportionately severe or that the Applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the application. Applicants have filed an application pursuant to section 9(c) seeking a temporary and permanent order exempting them from the disqualification provisions of section 9(a) of the Act.

3. Applicants believe they meet the standard for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a).

4. Applicants state that the conduct giving rise to the Injunctions did not involve any of the Applicants acting in the capacity of investment adviser, sub-adviser, depositor, or principal underwriter for a Fund. Applicants state that the Complaint did not expressly reference the conduct of any current or former employee of any of the Applicants who is or was involved in providing advisory, sub-advisory or underwriting services to the Funds advised or underwritten by Applicants.⁴ While the Applicants' portfolio managers had access to research reports issued by CSFB's research analysts, there is no indication that the portfolio managers relied on these research reports more than any other data that would have been considered by the portfolio managers in making investment decisions for the Funds, except as noted in the application.⁵ Although some of the Funds held securities in their portfolios at the time that CSFB issued research reports concerning the issuers of such securities, as far as Applicants are aware, none of the officers, portfolio managers, or any other investment personnel employed by the Applicants made any investment decisions based on any non-public information relating to the conduct underlying the Judgment. In addition, CSFB had policies regarding information barriers between CSAM Americas and other employees of CSFB that were designed to restrict communications between CSAM Americas and other employees of CSFB. These information barriers, which were in effect at the time of the complaint, together with other policies of the Applicants, are designed to protect the Funds from conflicts of interest between portfolio managers and certain employees of CSFB.

5. The Applicants will distribute written materials, including an offer to meet in person to discuss the materials, to the board of directors or trustees of each Fund (each, a "Board"), including the directors who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Fund, and their independent legal counsel, if any,

⁴ The Complaint also refers to general practices regarding the relationship between the investment banking and research departments of CSFB. It is possible that one or more current or former officers or employees of an Applicants who is or was involved in providing advisory, sub-advisory or underwriting services to the Funds was at some time an officer or employee of the investment banking or research department of CSFB.

⁵ Applicants state that they acted as investment adviser, principal underwriter, or depositor to a Fund whose portfolio securities were selected based primarily on research conducted by equity research analysts employed by CSFB, or its predecessor.

² Any registered unit investment trusts ("UIT") or registered face amount certificate company for which Applicants may serve as principal underwriter or depositor are also included in the defined term Funds.

³ Securities and Exchange Commission v. Credit Suisse First Boston LLC, *f/k/a* Credit Suisse First Boston Corporation, 03 CV 2946 (WHP) (S.D.N.Y., filed April 28, 2003).