

report; (3) receive oral scoping comments under the National Environmental Policy Act on the Trust's proposed environmental review for the Public Health Service Hospital project; and (4) receive public comment in accordance with the Trust's Public Outreach Policy.

Accommodation: Individuals requiring special accommodation at this meeting, such as needing a sign language interpreter, should contact Mollie Matull at (415) 561-5300 prior to November 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Karen Cook, General Counsel, the Presidio Trust, 34 Graham Street, PO Box 29052, San Francisco, California 94129-0052, Telephone: (415) 561-5300.

Dated: November 20, 2003.

**Karen A. Cook,**  
*General Counsel.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-26258; 812-12920]

### John Hancock Bank and Thrift Opportunity Fund; Notice of Application

November 20, 2003.

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

**ACTION:** Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 19(b) of the Act and rule 19b-1 under the Act.

**SUMMARY OF APPLICATION:** John Hancock Bank and Thrift Opportunity Fund (the "Applicant") requests an order to permit it to make periodic distributions of long-term capital gains, as often as monthly, so long as it maintains in effect a distribution policy calling for periodic distributions of a fixed percentage of net asset value or a fixed dollar amount each taxable year ("Distribution Plan").

**FILING DATES:** The application was filed on January 17, 2003, and amended on November 10, 2003.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests

should be received by the Commission by 5:30 p.m. on December 15, 2003 and should be accompanied by proof of service on Applicant, 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. Applicant, c/o Susan S. Newton, John Hancock Advisers, LLC, 101 Huntington Avenue, Boston, MA 02199-7603.

**FOR FURTHER INFORMATION CONTACT:** Christine Y. Greenlees, Senior Counsel, at (202) 942-0581, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

**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 (tel. 202-942-8090).

### Applicant's Representations

1. Applicant is organized as a Massachusetts business trust and is registered under the Act as a closed-end diversified management investment company. Applicant's investment objective is long-term capital appreciation through investment of at least 80% of its net assets in securities of U.S. regional banks and thrifts and holding companies that primarily own or receive a substantial portion of their income from regional banks or thrifts. Applicant's shares are listed and traded on the New York Stock Exchange. John Hancock Advisers, LLC, an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser to the Applicant.

2. On May 20, 2003, the Applicant's board of trustees (the "Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act ("Independent Trustees"), of the Applicant, adopted a Distribution Plan, pursuant to which the Applicant would make quarterly distributions of an amount equal to at least 2.5% of the Applicant's net asset value determined as of December 31st of the prior calendar year, for a total distribution of at least 10% annually. Applicant believes that the discount at which the Applicant's shares trade may be reduced

if the Applicant implemented the Distribution Plan.

3. Applicant requests relief to permit it, so long as it maintains in effect a Distribution Plan, to make periodic long-term capital gains distributions, as often as monthly, on its outstanding common stock.

### Applicant's Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b-1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(C) of the Internal Revenue Code of 1986, as amended (the "Code"). Rule 19b-1(a) also permits a supplemental distribution to be made pursuant to section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b-1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. Applicant asserts that rule 19b-1 under the Act, by limiting the number of net long-term capital gains distributions that it may make with respect to any one year, would prevent the normal and efficient operation of the Distribution Plan whenever the Applicant's realized net long-term capital gains in any year exceed the total of the fixed regular periodic distributions that may include such capital gains under the rule. Applicant states that rule 19b-1 thus may force the fixed regular periodic distributions to be funded with returns of capital (to the extent net investment income and realized short-term capital gains are insufficient to fund the distribution), even though realized net long-term capital gains otherwise would be available. Applicant further asserts that, to distribute all of its long-term capital gains within the limits in rule 19b-1, the Applicant may be required to make total distributions in excess of the annual amount called for by the Distribution Plan or retain and pay taxes on the excess amount. Applicant asserts that the application of rule 19b-1 to the Applicant's Distribution Plan may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. The Applicant submits that one of the concerns leading to the enactment of section 19(b) and the adoption of the