

continue to meet the underlying purpose of Appendix G to 10 CFR part 50. The underlying purpose of the regulations in Appendix G to 10 CFR part 50 is to provide an acceptable margin of safety against brittle failure of the RCS during any condition of normal operation to which the pressure boundary may be subjected over its service lifetime.

The NRC staff examined the licensee's rationale to support the exemption request, and accepts the licensee's determination that an exemption would be required to approve the use of ASME Code Case N-640. The staff has also concluded that the use of ASME Code Case N-640 would meet the underlying intent of Appendix G to 10 CFR part 50. The NRC staff concluded that the application of the technical provisions of ASME Code Case N-640 provided sufficient margin in the development of RPV P-T limit curves such that the underlying purpose of the regulations contained in Appendix G to 10 CFR part 50 continued to be met. Therefore, the specific conditions required by the regulations; *i.e.*, the use of all provisions in Appendix G to Section XI of the ASME Code, were not necessary. The NRC staff has, therefore, concluded that the exemption requested by Entergy is justified based on the special circumstances of 10 CFR 50.12(a)(2)(ii), "[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule."

Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of Appendix G to 10 CFR part 50 and Appendix G to Section XI of the ASME Code, the staff concluded that the application of ASME Code Case N-640 would provide an adequate margin of safety against brittle failure of the RPV. This is also consistent with the determination that the staff has reached for other licensees under similar conditions based on the same considerations. The staff concludes that the exemption requested by Entergy is appropriate under the special circumstances of 10 CFR 50.12(a)(2)(ii), and the methodology of ASME Code Case N-640 may be used to revise the P-T limits for the IP3 RPV. Pursuant to 10 CFR 50.12(a)(1), the granting of this exemption is authorized by law, will not present undue risk to the public health and safety, and is consistent with the common defense and security. Therefore, the staff considers granting an exemption to 10 CFR 50.60(a) and Appendix G to 10 CFR part 50 to allow use of ASME Code Case N-640 as part

of the basis for generating the P-T limit curves for IP3 is appropriate.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Entergy an exemption from the requirements of 10 CFR 50.60 and Appendix G to 10 CFR part 50, to allow for the application of ASME Code Case N-640 in establishing TS requirements for the RPV P-T limits for IP3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (68 FR 67490).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 2nd day of December, 2003.

For the Nuclear Regulatory Commission,
Ledyard B. Marsh, Director,
Division of Licensing Project Management,
Office of Nuclear Reactor Regulation.
[FR Doc. 03-30360 Filed 12-5-03; 8:45 am]
BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-26282; 812-12912]

The Vanguard Group, Inc., et al.; Notice of Application

December 2, 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 ("Act") for an exemption from sections 2(a)(32), 18(f)(1), 18(i), 22(d) and 24(d) of the Act and rule 22c-1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act to the extent necessary to amend a prior order.¹

Summary of Application: Applicants request an order to amend the Original VIPERs Order. The requested order would permit additional registered investment companies, and their series, to rely on the Original VIPERs Order, and modify certain terms and

conditions of the Original VIPERs Order.

Applicants: The Vanguard Group, Inc. ("VGI"), Vanguard Index Funds ("Index Trust"), Vanguard Specialized Funds ("Specialized Trust"), Vanguard World Fund ("World Trust"), and Vanguard Marketing Corporation ("VMC").

Filing Dates: The application was filed on December 13, 2002, and amended on October 30, 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 December 29, 2003, and should be accompanied by proof of service on 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, P.O. Box 2600, Valley Forge, PA 19482.

FOR FURTHER INFORMATION CONTACT: Stacy L. Fuller, Senior Counsel, or Michael W. Mundt, Senior Special Counsel, 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).

Applicants' Representations:

1. Index Trust, VGI and VMC (together, "Original Applicants") obtained the Original VIPERs Order to permit the nine series of Index Trust ("Original Applicant Funds") to offer an exchange-traded class of shares ("VIPER Shares"). The Original VIPERs Order granted exemptions under section 6(c) of the Act from sections 2(a)(32), 18(f)(1), 18(i), 22(d) and 24(d) of the Act and rule 22c-1 under the Act and under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and (2) of the Act. The Original Applicants, Specialized Trust, and World Trust (together,

¹ Vanguard Index Funds, *et al.*, Investment Company Act Rel. Nos. 24680 (Oct. 6, 2000) (notice) and 24789 (Dec. 12, 2000) (order) ("Original VIPERs Order").