

techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: December 9, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-30937 Filed 12-15-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-26286; 811-78332]

### Bexil Corporation; Notice of Application

December 10, 2003.

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

**ACTION:** Notice of application for deregistration under section 8(f) of the Investment Company Act of 1940 (the "Act").

**SUMMARY OF APPLICATION:** Bexil Corporation requests an order declaring that it has ceased to be an investment company.

*Applicant:* Bexil Corporation.

*Filing Dates:* The application was filed on April 8, 2002, and amended on December 5, 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 January 5, 2004, 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 Stephanie A. Djinis, Law Offices of Stephanie A. Djinis, 1749 Old Meadow Road, Suite 310, McLean, VA 22102.

**FOR FURTHER INFORMATION CONTACT:** Jaea F. Hahn, Senior Counsel, at (202) 942-0614, or Todd F. Kuehl, 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. From 1986 through 1996, applicant's predecessor operated as a diversified series of shares of Bull & Bear Funds II, Inc., an open-end management investment company organized in 1974 under the laws of the State of Maryland and registered under the Act. Applicant was incorporated under the laws of the State of Maryland as Bull & Bear U.S. Government Securities Fund, Inc. on August 30, 1996. On September 27, 1996, applicant registered under the Act as a closed-end management investment company. Applicant changed its name to Bexil Corporation on August 26, 1999. On November 28, 2000, applicant's stockholders approved a proposal to change the nature of applicant's business so as to cease to be an investment company and become an operating company. On June 13, 2001, applicant's board of directors (the "Board") terminated its management contract with an outside investment adviser effective July 31, 2001, and authorized applicant's officers to manage applicant's business affairs.

2. On January 18, 2002, applicant acquired 50% of the outstanding voting stock of York Insurance Services Group, Inc. ("York"), a newly formed Delaware corporation. On that same date, York purchased all of the outstanding stock of certain subsidiaries of AIG Insurance Services, Inc. ("AIGIS"), a Delaware corporation. These subsidiaries have served as independent adjustment companies and third party administrators providing claims, data, and risk related services to insurers, insureds, and intermediaries located throughout the United States. Applicant states that York is not an investment company as defined in section 3(a) of the Act.

3. Mr. Thomas MacArthur ("MacArthur"), York's chairman and chief executive officer, owns the remaining 50% of York's outstanding stock. Pursuant to a stockholder's agreement among MacArthur, York and the applicant, York's board of directors consists of five members; each of

MacArthur and the applicant has the right to nominate two members and AIGIS has the right to nominate one member.<sup>1</sup> Through a voting agreement among York, MacArthur and the applicant ("Voting Agreement"), applicant states that it has control over 50% of York's board of directors.<sup>2</sup> Two members of applicant's Board currently serve as members of York's board of directors. Applicant's president currently serves as York's vice-chairman. Applicant states that it substantially contributes to the management of York's lines of business expansion or contraction, executive compensation and human resources, internal audit, accounting and auditing, budgeting and capital expenditures, legal capitalization structure and related uses of debt and equity financing and mergers and acquisition activity. Applicant also states that it sets the compensation of all York officers, other than MacArthur, through its control over the compensation committee of York's board of directors. At June 30, 2003, applicant's interest in York represented approximately 98% of applicant's total assets on an unconsolidated basis (exclusive of Government securities and cash items).

#### *Applicant's Legal Analysis:*

1. Section 8(f) of the Act provides that whenever the Commission, upon application or its own motion, finds that a registered investment company has ceased to be an investment company, the Commission shall so declare by order and upon the taking effect of such order, the registration of such company shall cease to be in effect.

2. Section 3(a)(1)(A) of the Act defines an investment company as any issuer which "is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities." Section 3(a)(1)(C) of the Act defines an investment company as any issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the

<sup>1</sup> York's bylaws provide that directors shall be nominated by a plurality of votes, except that any election of the individual nominated by AIGIS shall require a unanimous vote. All of AIGIS' rights with respect to directorships of York terminate at such time as the principal amount of a subordinated note dated January 18, 2002, of York payable to AIGIS shall be paid in full.

<sup>2</sup> The Voting Agreement requires that MacArthur vote his shares in favor of the AIGIS nominee, and that MacArthur will not vote for any individual to fill the vacancy left by an AIGIS nominee. The Voting Agreement contains no similar provision regarding the applicant's voting shares in York.

value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Section 3(a)(2) of the Act defines investment securities as "all securities except (a) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exception from the definition of investment company in paragraph (1) or (7) of subsection (c)." Section 2(a)(24) of the Act defines majority-owned subsidiary of a person as "a company 50 per centum or more of the outstanding voting securities of which are owned by such person, or by a company which, within the meaning of this paragraph, is a majority-owned subsidiary of such person." Applicant states that it is no longer an investment company as defined in section 3(a)(1)(A) or section 3(a)(1)(C). Applicant states that it is actively engaged in the business of overseeing its York subsidiary's provision of claims, data, and risk related services to insurers, insureds, and intermediaries located throughout the United States, and that applicant is also actively engaged in conducting a business review, development, and acquisition program for other operating businesses.

3. Applicant states that it no longer meets the definition of investment company under the Act, and that it is thus qualified for an order of the Commission pursuant to section 8(f) of the Act. Applicant states that after entry of the order requested by the application, it will continue to be a publicly-held company listed on the American Stock Exchange and will continue to be subject to the reporting and other requirements of the Securities Exchange Act of 1934.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-30985 Filed 12-15-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48898; File No. SR-Amex-2003-98]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by American Stock Exchange LLC Relating to Trust Certificates Linked to a Basket of Investment Grade Fixed Income Securities

December 10, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 14, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to approve for listing and trading under section 107A of the Amex Company Guide ("Company Guide"), trust certificates linked to a basket of investment grade fixed income debt instruments.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item III below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

Under section 107A of the Company Guide, the Exchange may approve for listing and trading securities which

cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.<sup>3</sup> The Amex proposes to list for trading under section 107A of the Amex Company Guide, the ABS Securities. The Exchange proposed to list and trade under section 107A of the Company Guide, asset-backed securities ("ABS Securities") representing ownership interests in the IndexPlus Trust Series 2003-1 ("Trust"), a special purpose trust to be formed by Merrill Lynch Depositor, Inc. ("MLD"),<sup>4</sup> and the trustee of the Trust pursuant to a trust agreement, which will be entered into on the date that the ABS Securities are issued. The assets of the Trust will consist primarily of a basket or portfolio of up to approximately twenty-five (25) investment-grade-fixed-income securities ("Underlying Corporate Bonds") and United States Department of Treasury STRIPS or securities issued by the United States Department of the Treasury ("Treasury Securities"). In the aggregate, the component securities of the basket or portfolio will be referred to as the "Underlying Securities."

The ABS Securities will conform to the initial listing guidelines under section 107A<sup>5</sup> and continued listing guidelines under sections 1001-1003<sup>6</sup>

<sup>3</sup> See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR-Amex-89-29).

<sup>4</sup> Merrill Lynch Depositor, Inc. is a wholly-owned special purpose entity of Merrill Lynch, Pierce, Fenner & Smith Incorporated and the registrant under the Form S-3 Registration Statement (No. 333-88166) under which the securities will be issued.

<sup>5</sup> The initial listing standards for the ABS Securities require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least \$4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of \$100 million, stockholder's equity of at least \$10 million, and pre-tax income of at least \$750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in section 101 of the Company Guide, the Exchange pursuant to section 107A of the Company Guide will require the issuer to have the following: (1) Assets in excess of \$200 million and stockholders' equity of at least \$10 million; or (2) assets in excess of \$100 million and stockholders' equity of at least \$20 million.

<sup>6</sup> The Exchange's continued listing guidelines are set forth in sections 1001 through 1003 of part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the ABS Securities, the Exchange will rely on the guidelines for bonds in section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.